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# ANSWER

TO

The Reverend Mr. George Logan's late Treatise on Government:

#### IN WHICH

(Contrary to the manifold Errors and Misrepresentations of that Author)

The ancient Constitution of the Crown and Kingdom of SCOTLAND, and the hereditary Succession of its Monarchs are afferted and vindicated;

The Legitimacy of King ROBERT III. is most clearly demonstrated

### AND

Several confiderable Mistakes and Falshoods, in our common Historians and others, are discovered and rectified.

### By THOMAS RUDDIMAN, A. M.

Qua Cafaris Cafari. Luc. xxii. 25. Ex Se Dids Baoixnes Hesiod.

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A LTHO' the following Treatise has, contrary to my first Intention, swell'd to too great a Bulk already; yet as there are some Things that may be thought necessary for the Reader's farther Information and Satisfaction in the Matter, which could not so conveniently he brought into the Body of the Book itself, I am obliged to give them a Place here by way of Preface, And,

THE first Thing I am to speak of, is with respect to what has given Occasion to the Dispute betwixt the Reverend Mr. Logan and me. As to which the Reader will please be informed, that as I never had an Inclination to Debates of any Kind, so this I am now engaged in had not its Rise from any Writings of mine own upon controversal Subjects; but from some Annotations, Prefaces and the like, which I was desired to make on the Writings of others. Particularly, near forty Years a

go, I was employed to overfee an Edition of Butchanan's Works, which was first begun by Mr. Mosman, and afterwards carried on by Mr. Free bairn, late Bookfellers in Edinburgh. To tender that Edition as correct as I could, especially that of the History of Scotland, which is the most considerable of that great Man's Performances, I thought it necestary to compare it with our other more ancient Histories, whether in Print or Manuscript; and also to consult, as far as I could have Access to them, our publick Records, and all other Documents and Writings that could afford me. Light in the Affairs of our Nation. Having by thefe Means discovered, among other Things, a great many Errors and Mistakes, which that otherwise so much celebrated Historian bad fallen into, I could not but think, that as Truth is the Soul of all History, so it would be acceptable to the Publick, that I should subjoin to that Part of Buchanan's Works some brief Annotations, not only-ferving to rectify and illustrate his Text, but also to point out, wherein he had deviated from that su-preme Rule. But, as there are not a few in the World, who cannot endure any thing, the ever fo true, to be said, if it thruarts their temporal Interests, or their prejudicated Notions and Opinions: So it was not to be wondred that the Freedoms I have taken with that famous Author (whose Words pass with a certain Set of People among us for so many Oracles) should raise their Spleen and Indignation against me. This I was soon after the Publication of these my Annotations made to under-

stand, by a Project that was set on Foot, for giving new Edition of that Author's Works, with a

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### The PREFACE

cation of him from those Errors I object to him in his History. How that Matter stands at present is shew'd by my Antagonist Mr. Logan in his first Treatise, p. 24. of which I have also taken Notice in my Answer, p. 66. But among all these Projectors, there feems to be none to whom I have given so great Offence, as to my Reverend Antagonist, who, not waiting till that great Undertaking should be made publick, has thought fit to attack me for some of these my Annotations. 'T is true, be has brought me into very good Company, by joining me with some great and eminent Persons, vastly superior to me in all Respects: But, as I am most frequently called upon to answer both for myself and them, it may rea-Sonably be thought that I am the Butt against which his Book is principally levelled. This at least is certain, that he is the first Aggressor, and that I, whatever may be the Event of the Combat, do no more but stand up in my own Defence. As to which I shall only add, that to shew how ready I am to do bim all Justice, I have not only fairly stated the Questions betwixt us, but also all along have set down bis Words, without omitting any thing that is material in the Controversy we go upon.

THE next Thing I am to mention, and which to me appears very singular in Mr. Logan's Conduct, is, that notwithstanding he oftner than once calls upon me to answer him; and (as he owns himself) knew that I had begun, and gone some Length in that my Answer; yet he would not have the Patience till it should come abroad, but would needs publish a second Treatise upon the same Subject. Had I delay'd what I had to say for myself for any considerable Time, he might have had some Reason

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for this Piece of Management: But as this his fecond Performance was put to the Press within three Months at most, after the Publication of the first, be cannot use that Pretence. But what, increases the Wonder not a little, is, that, excepting Some Squabbles he has with other Perfons, in which I am not in the least concerned, I can hardly find any thing in this his latter Work, that can be called new, and which was not upon the Matter infifted on in the former. He bimself, it would seem, bas thought otherwise, and therefore was pleased to cause the Sheets of his second Performance to be sent me as they came from the Press: But since, as I faid, I can perceive nothing in it, that is of the least Moment in the Controversy, other than what he had advanced in his first Treatise, and which I have fully considered and answered in the following Distertation, he'll excuse that I have not thought it necesfary to make any particular Reply to subat is contain'd in it. There are only two Things, one in his Dedication, and another in his Introduction, which as they concern myfelf and not the Caufe, I must beg the Reader's Leave to take here some Notice of them.

in representing me as having abused the Favours I received from the late Lord Advocate Sir David Dalrymple, and Mr. Andrew Fletcher of Salton: But wherein have I abused their Favours? They assisted me indeed with some Books which I wanted for the Purpose I had in Hand of giving a right Edition of Buchanan's Works, which I gratefully acknowledge in my Presace to that Edition. "But (says Mr. Logan) had they known I would have made the Use of them I did, they would not so readily have

come.

bave vouchsafed me that Favour." But subo told bim for Gan be think that thefe truly great and bonourable Persons did not know, that however much they might otherwise esteem Mr. George Buchapan, yet be had his Failings? And could they find Fault that some of the Errors in his History Should be disf. covered and corrected? The former I am fure could not: For his Brother Sir James Dalrymple, one of the greatest Antiquaries this Nation ever had, bas maintained the only two Things, which the robole Controversy betwint Mr. Logan and me turns upon. viz. the hereditary Succession of our Kings, and the Legitimacy of Robert III. For zubich fee Rreface to his Historical Collections, from Page xxix. to xli. As to the other, Mr. Fletcher, be, as be was in other Respects a true Lover of his Country, and a singular Ornament to it, so be was in particular a Gentleman of fuch Strict Honour and Virtue, that as be could not endure any thing that was base, falson difingenuous; so be could but on the other Hand love Truth and approve it, where soever and by whomfoever be found it pointed out and discovered to bim.

2. OUR Author in the Introduction to that his second Treatise, speaks of a nicking of the Time, when such and such Things are to be published to the World, and particularly that Dr. Mackenzie, Dr. Abercromby, and I, took the Opportunity of defending the hereditary Succession of our Kings, and the Legitimacy of Robert III. when a Tory Ministry bare Sway in the last Years of Queen Anne. It seems that, with our Author, there is a Time when the Truth is not to be told in historical Matters, tho' happening some hundreds of Years ago; and that, if that Time should not

come, or not be nicked when it comes, the Truth must be smothered or conceal'd. Did the Earl of Cromarty mick the Time, when he in the Year 1695 wrote and dedicated to King William bis Vindieation of the Legitimacy of Robert III. and thought it a Piece of good Service done that King and the Royal Family of whom he was descended? Did Sir James Dalrymple nick the Time, when in the Year 1705, in which a Whig Ministry prevail'd, be defended that Legitimacy and bereditary Succession? And have I nicked it, when after one Rebellion is qualited, I have the Courage to defend what I had before said, (as he falsely represents me) to give Countenance to another former Rebeltion? Most of these my Annotations on Buchanan were written when there was not the least Appearance of any Rebellion, and I had no other View but to declare what I then did and still do take to be treal Truths. The Liberty of the Press was, and is reckoned one of the great Privileges of the late Revolution. But is that Liberty confin'd to one Party only, and not allowed to any other? Muft one Set of Men have the Liberty of pouring forth perpetual Reproaches and Calumnies against our former Kings, and particularly those of the Name of STEWART, and Shall not another have the same Liberty of defending and vindicating them? Is it commendable in a Scotsman to write against the ancient Constitution of his own Nation, and to run down the Antiquity and Independency of it? And is it a Fault in others to maintain the Honour and Dignity both of it, and of those glorious Princes that have reign'd over it? I may perhaps in this and some other Things have given Offence to those come that

that are taken with our Author's popular Schemes:
But I am confident they can give none to the true and steady Friends of his present Majesty, whose Title and that of his Posterity to the Throne of Britain is sounded upon the Principles I maintain. Our Author may think he has nicked the Time of ingratiating himself with his Majesty's Government, in asserting the contrary: But I have great Reason to believe he will find himself much mistaken.

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## ANSWER

To the Reverend

Mr. GEORGE LOGAN, &c.



HERE have so many Treatises upon Government, some in general, and others in particular on that of Scotland, been published to the World, that one would have thought that the Subject was by this time quite exhausted,

and that no new thing could be added on the Head. But there has in the Beginning of this Year come forth a small Treatise relating to the Form of the Scotish Government, wherein are advanced a great many things indicta ore alio, and so very new, that they were, for the most part, never so much as thought

thought of by any other. The Book bears for its Title, A Treatise on Government; shewing that the Right of the Kings of Scotland to the Crown was not strictly and absolutely Hereditary; against the Earl of Cromarty, Sir George Mackenzie the King's Advocate, Mr. John Sage, Stiled the Cyprianick Doctor, and the learned Antiquarian Mr. Thomas Ruddiman; by George Logan, A. M. one of the Ministers of Edinburgh. The Reverend Author was so good as to make me a Present of this his Performance, in testimony (as he is pleased to express it) of his Respect; and has all along, in the Work itself, treated me in a decent and civil Manner. Both these I accept and acknowledge with all Thankfulness. But I know not if it is a Favour done me, that he has ranked me with fuch honourable and eminent Persons as he has named; to whom I am every way so much inferior, that it may seem too great an Honour done me, and a Disparagement to them, to have me put in the fame Category with Only I could have wished, that he had us'd them in the same civil Manner that he has done me. That he has done otherwise, seems the less generous, as they have long fince gone to another, and, I hope, a better World, and so are not capable of answering for themselves; which, were they alive, they could do to much better Purpose than I However, can.

As the Reverend Author has, besides what he writes against them, taken upon him to animadvert on many things advanced by me, in the Presace and Notes to Buchanan's Works, published several Years ago, but especially in the Presace I lately wrote to Mr. Anderson's Diplomata Scotia, and has in express

press Words (a) called upon me to wouch what I have faid: I could not but think it a Duty incumbent upon me, and a Piece of Justice I owe to my felf and the World, both to vindicate my felf from the Charge he has laid against me, and more particularly to rescue Truth from the false Glosses and Representations thrown upon her; especially in things wherein the Honour and Dignity of the Crown and Kingdom of Scotland are thought not to be a little concerned. I know I am a Man, and liable to the common Infirmities, Weaknesses and Failings inseparable in this World from human Nature. But, tho' none shall be more ready to acknowledge his Faults, and to retract them when called upon to do it, than I am; yet fo long as I am capable to diffinguish between Truth and Falshood, Right and Wrong, I shall never be brought to forfake the one, and hold to the other. Justice and Truth are my two favourite Virtues, and by the Help of Go D no earthly Considerations shall make me abandon them. There is one thing however I am forry for, that, contrary to my Inclination, I am obliged to enter the Lists with the Rev. Mr. Logan, for whom I have of a long time had a real Respect and Esteem: And it troubles me not a little, that any thing should come from his Pen that has the fmallest Tendency to lessen the good Opinion I had of him. But in this, at least, I hope he will agree with me, that amicus Socrates, amicus Plato, sed magis amica veritas.

But, to leave off farther Prefacing, let us come to the Matter in Dispute betwixt us. His Book, I A 2 find,

<sup>(</sup>a) See Page 159.

find, is divided into two Parts. In the former of which he is at some Pains to prove, that the Monarchy of Scotland was not strictly hereditary, but that several Gaps and Interruptions have been made in the lineal Descent of our Kings. The latter Part, which is more than doubly as large as the other, is wholly taken up in shewing (as he gives out) for a notable Instance of what he had before advanced, That our Robert III. was a Bastard; and, of consequence, as he had no Title to the Crown, other than what the Estates gave him, so he could not transmit it by Right of Blood to his Posterity, who have

reigned ever fince after him.

Tно' I am brought in again and again in his former Part, yet, so far as I can see, I am very little touched or affected by what is there faid against me. I have indeed, once in my Preface to Buchanan's Works, and once, or twice perhaps, in my Notes upon his History, afferted, That the Crown of Scotland was hereditary, and did not depend on the Suffrages of the People. And where is my Fault in fo faying? I do not fay whether it was strictly and abfolutely hereditary, but simply that it was hereditary. And was not this the Constitution or Rule of Succession in this Kingdom, from the Days at least of Kenneth III. as is agreed on by all our Historians? As the Rev. Author could not well suppose, that I, who had so much occasion to consult thele Historians, could be ignorant that this Order of Succession was sometimes by Rebellions and Usurparions, (which have frequently happened in other hereditary Kingdoms as well as ours, and once when the absolute Necessity of our Affairs seemed to require it, broken and interrupted; yet that did not not

on, or hinder it from running into the same Channel again; no more than the Lunacy or Madness of some hinders Men in the general from being accounted rational Creatures.

Our Author, in order to overthrow the lineal Descent and Succession of our Kings, begins his Introduction with adopting the Sentiments of a certain Gentleman, who, in a late Pamphlet, entituled, The Right of the House of Stewart to the Crown of Scotland considered, has to good Purpose (as he gives out) shown, "That the Right of the House of Stewart is not hereditary, from the Succession of Robert Bruce, from whom the Stewarts are descended, who had not the Right, and that the Right did belong to John Baliol." And then both he and our Author give us the State of the Controversy between these two Competitors; which being so well known, I need not here particularly set down.

The main, or rather only Hinge, as all agree, of the Controversy turned upon this; Whether, in the Competition for the Crown, the Son of a second Daughter, or the Grandson of the eldest Daughter, ought to be preferred? Robert Bruce, the Grandsather of him who was afterwards King, claim'd the Crown as the former, and John Baliol as the latter. The States of Scotland (to whom it belong'd to determine the Question) seeing the Kingdom thereby divided into two powerful Factions, and not thinking themselves able to compose the Difference, or to compel the adverse Party to acquiesce to their Sentence, chose to refer the Decision to Edward I. King of England, He being an ambitious

ambitious Prince, gladly laid hold on the Opportunity which this gave him, of fubjecting both King and Kingdom of Scotland to that of England, which some of his Predecessors had most unjustly, but in vain, aim'd to bring about. Accordingly being thus chosen Umpire, before he would proceed to give his Decision, by a lawless Force he extorted from, not only all the Competitors, (for there were, besides Bruce and Baliol, no fewer than other ten or eleven, some of whom he is thought to have rais'd up himself) but also from most of the great Men of the Kingdom, an Acknowledgment that he was the Superior or direct Liege-Lord both of it and them. This being done with a great deal of Formality and Solemnity, he with no lefs Formality at last declar'd John Baliol, his new Vassal, the rightful Heir of the Crown of Scotland. Which Decision of his is by him founded on this, that it was secundum leges & consustudines utriusque regni. But how truly, we shall see anon.

of Fact, proceed we next to confider the Inferences that Gentleman and our Author draw from it.

nonstration, that we had then a fixt Constitution or Law of Succession to the Crown, and that that was by Proximity of Blood. For both the Competitors claim'd it on that Score only; and the sole Dispute was, which of their Claims was best sounded. You say, with that Gentleman, that the Right did belong to John Baliol; others say, to Robert Bruce. There was therefore a Right some where: But what Foundation could there be for such a Right,

Right, and why a Controverfy concerning the Perfon to whom it belong'd, unless there was a certain Lex regni, determining that the next in Blood (whoever the Person should happen to be) ought by Right to fucceed to his immediate Predecessor? There was no briguing or foliciting in the Cafe, no courting of the People for their Votes: For had it depended on that, there was no Right in either: The People might have excluded them both. and given the Crown to whom they pleas'd; and they, as well as the rest of the Community, ought, as good Subjects, to have submitted to the People's Nomination. Again, what need was there of remitting the Matter to an Umpire, unless there was fome Doubt or Difficulty which of the contending Parties had the preferable Right? I hope the States of Scotland did not remit it to King Edward to chuse a King for them; for that would have both been attended with dangerous Confequences, and (if mere Election was the Rule) could more easily and regularly have been executed by themfelves at home. All therefore they defigned was, that of the two Competitors (for the rest, as having flender or unjust Pretensions, were soon dropt) he would declare, which by Proximity of Blood had the Right preferably to the other.

2. Thus it appears, that the Election of the People had no Place in this grand Question, and that the Matter turned entirely upon the Nearness of Blood the two Competitors stood in to the Grand-daughter of Alexander III. the last immediate Possessor. But my two Antagonists, being necessarily driven from the Hold of Election, on which at other times however they would have

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the Succession of our Kings to be chiefly founded; they still maintain that John Baliol had the Right, and that King Edward, as an upright Judge, did no more than he ought, by deciding in his favour; and of consequence, that not only he and his Son Edward Baliol, but also the Earl of Douglas, and whoever was, or is nearest of Kin to that Family, had successively a Right to the Crown of Scotland; and that a great Injury is done them by debarring them from it to this Day. But to this I answer,

3. That it is very far from being certain, that John Baliol had the Right. King Edward, I own, did so decide it; and the Reason he gives for so doing was, that it was according to the Laws and Customs of both Kingdoms. It might at that time be so in England, for ought I know; but I very much doubt if it was universally so in Scotland; and that being a sovereign and independent Kingdom, (tho then overpowered and brought into Subjection by that ambitious Prince) the Laws and Customs of another Kingdom could be no Rule to ours. Besides, I might argue with Robert Bruce the Competitor, That the Right to a Crown does not descend the same way as it does in private Estates.

I add further, that the Succession to private Inheritances can never be a Rule to that of sovereign Kingdoms: For that of the latter is fixt, regular and uniform; whereas that of the former, as depending very much on the arbitrary Pleasure of the first Granter, or of some intermediate Possessor, is subject to great Variety. Thus, in our Kingdom, many Estates, as well as Honours, are convey'd to Heirs whatsoever; others to Heirs-male only. Again, with us, unless there is some particular Provi-

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fion to the contrary, Heritage falls to the eldeft Son, to the Exclusion of all the other Children, whether Male or Female. But if there is no Male Issue, but Females only, it is divided equally among them. In Moveables it is otherwise, for both Males and Females succeed equally in the same Degree of Confanguinity, and thereby (which is fomewhat odd) the Children of the last Possessor, that happen'd to be alive, will exclude the Grandchildren by those his Sons or Daughters that happen'd to be dead. This being the Case, how can that which is so various and uncertain be a Rule to that which is or ought to be uniform and certain. I might here also observe, that that cannot be a Rule with respect to Scotland which is not a Rule in other Kingdoms. It is now agreed to be a Fundamental in the Monarchy of France, That neither Females themselves, nor their Descendents (who otherwise might claim Right by them) are capable of inheriting that Crown. And yet it is otherwise in particular Families in that Kingdom; many of whose Estates devolve to Females. it is to this, in a great measure, that France owes its present Grandeur; many great Dukedoms and Provinces being added to that Crown, by the Marriages of its Princes with the Heiresses of them. Thus, tho' the Kingdom of Poland is purely elective, yet the Grandees and others transmit their Fortunes by a lineal Descent. And the same holds likewise in the German Empire, which, tho' elective, yet most, if not all the Principalities in it, are transmitted to Posterity by the common Laws of Confanguinity. I shall give only one Instance more, and which has a very near Resemblance to the Case of Dominions of the House of Austria, the Law of Succession whereto is, That not only a Brother is preferr'd to the Daughter of the Predecessor, but the Daughter of the younger Brother, if last in Possession, is preferr'd to the Daughter of the elder. And the so much talked of Pragmatick Sanction is not a new Settlement, but a Declaration of the old Rule of Succession in that Family. From all which that I have said, I may (I think) fairly subsume, That if King Edward of England had no other Ground for his Decision, than that it was according to the Laws and Customs of both Nations, it

had truly no Ground at all.

WHAT shall we say then, and by what Law or Rule shall this grand Controversy be determined? If we go to the Constitution of Scotland, there we find little to fix upon. Kenneth III. tho' he had provided against the Mischiefs and Calamities, occasioned by the loose and vague Manner in which the Kings before him had come to the Throne, by determining the Succession in the descendent Line; yet neither he, nor any of our Kings after him to that time, had left any Law, in case of a Dispute among Collaterals. Since therefore we had no certain Law to direct us in our own Kingdom, and that the Succession in private Families being various and mutable, as I have faid, could be no Rule at all, we must have Recourse to other and more general Laws: And what can these be but the Laws of Nature and Nations? Robert Bruce, the Competitor, founded his Claim principally on the Law of Nature: And tho' it may feem Prefumption in me, who am no Lawyer, to pass a Judgment in so nice

nice and intricate a Point; yet, as Matters stood then, whatever Rule may have fince prevailed, I take the Freedom to declare it as my sincere Opinion, that according to natural Equity and Reason, which are anterior to all human Laws, Robert Bruce had them on his Side. This is certain, and I believe founded on that Principle, That in all civiliz'd, and (for ought I know) even barbarous Nations, Males in the first Degree of Confanguinity, are preferr'd to the Government before Females. And, as Mr. Logan (b) has proposed a Question about Succession, which, he says, will puzzle me to resolve to any Satisfaction; he also will allow me to propose another of the same kind, which will puzzle him much more to resolve, consistently with what he here advances, viz. Why, fince in the first Degree of Confanguinity, without any Regard to the Priority of Birth, Males are constantly preferr'd to Females, they should not likewise be preferr'd in the fecond, and fo on in other equal Degrees of Confanguinity? If he can give me a sufficient Reason for a Difference, founded on the intrinsick Nature of things, with which alone I am now concerned; then I promise to give up the Cause, and pronounce with him in favour of John Baliol. Robert Bruce was certainly at the Time of the Competition the first Male, and equally near in Blood with Dervegild, John Baliol's Mother, to the last Possessor Queen Margaret of Norway; and therefore, tho' descended of the younger Sister, yet he being a Male, and Dervegild, tho' descended of the elder Sister, but a Female, had she

then been alive, he ought to have been preferr'd before her; by the same Parity of Reason, that he would have been preferr'd, had she been his Sister. As for John Baliol, as he had no other Right but what he derived from his Mother, if she (had she been alive) could have had no Title, so neither

could he her Son have any.

Bur why should I trouble the Reader with my Reasonings on the Subject, when I have the Authority and Judgment of two Kings, and, which ought (as our Author accounts it on other Occasions) to be decifive in the Matter, of the Nobility, Barons, Freeholders, and whole Community of Scotland, confirming what I have faid. As to the Kings, we have it declar'd by Robert Bruce, in his Petition to Edward of England, and not denied by John Baliol his Rival, "That Alexander II. the Son of "King William, despairing of an Heir of his own " Body, held the said Robert his right Heir, if he " himself should die without having another Heir " of his own Body, and with the Assent of the " good Men of his Kingdom appointed him as fuch; " and (as he adds) pronounced him as fuch before " them, of whom there were many yet alive that " could bear Witness to it. And (continues he) A-" lexander III. also who died last, held him for such. " and willed it to be so understood to his special "Friends, if his own Issue should fail (c)."

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<sup>(</sup>c) Quòd Rex Alexander, filius Regis Willielmi, desperans de herede de corpore suo, tenuit dictum Robertum rectum heredem suum, si ipse decederet sine alio herede de suo corpore habendo: E protali definivit, ex assensu proborum hominum de regno suo; E pro tali ipsum pronunciavit coram eis, de quibus plures adhuc

THE Declaration of the Nobility, &c. of Scotland, in that famous Letter of theirs to the Pope Anno 1220, (one of the Originals of which is yet extant among our publick Records) is more express: For they say, "That the Divine Appoint-"ment and the Succession of Right according to " their Laws and Customs, which they would main-" tain to Death; and the due Assent and Consent " of them all had made him [Robert Bruce] their " Prince and King (d)." Here is no Word of Election, or the Suffrages of the People; but only that, according to their bounden Duty, they own him for their King, who by the Law of God and of their Country had a Right to it. And they add, "That both on the Account of his Right, as well as of his Merits, they were obliged and refolved " to adhere to him in the Defence of their Liber-" ty." (e) And above they had called themselves his People, and the Kingdom his Inheritance. 'Tis true they subjoin, " That if he should go about to " subject them to the King of England, or English-" men, they would immediately labour to expel " him, as the Subverter of both his own and their "Right, and make to themselves another King " who should be able to defend them." Adding this glorious Resolution, "That so long as an hun-" dred of them were alive, they would never be " fub-

adhuc sunt superstites, qui de hoc testimonium poterunt perhibere. Et Rex etiam Alexander, qui ultimo obiit, tenuis ipsum pro tali, & id pluribus specialibus suis dedit intelligi, si exitus de ipso desiceret. Vid. Rymer, Fæd. Angl. Tom ii. p. 580. (d) Vid. Append, Numb. 11. to Anderson's Independency

of Scotland.

(e). Ibid.

" Subject to the King of England." Upon this the Oppofers of hereditary Right found an Argument against it, and for the Election of our Kings by the Suffrages of the People. But how they can make that confift with what the whole Body of the People have (as I have shewed above) declared, is past my Comprehension. Do not they three times over expresly declare, That the Right belonged to Robert Bruce, and that upon that Account they were bound to adbere to bim. And tho' they add, that if this their rightful King should subject them or their Kingdom to the King of England, they would expel him, and fet up another in his Place who would maintain their Independency; this fays no more, but what should be faid to every the most rightful King, who should subject his and the Kingdom's Independency to a foreign Yoke, That he left off to be their King, as having before degraded and unking'd himfelf: In which Event, the People are certainly at Liberty to adhere to the next righteous Heir, who would maintain and support their National Liberty.

of France, commonly, and very deservedly, called the Frantick, who having given up his Kingdom to Henry V. of England, yet the loyal People of France did not therefore think themselves freed from their Allegiance due to his Son and Heir Charles VII. but having strenuously adher'd to him, tho' he was brought almost to the Brink of Ruin; yet at last he not only recover'd his Kingdom out of the Hands of the English, but also took from them all they possess the France either by

Right or Conquest, except Calais.

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But why should we seek into foreign Examples. when we have a notable one at home, and that at no further Distance than King Robert Bruce's own Son David's time, who having made a Proposal to his Parliament, That in case he should die without Heirs of his own Body, they would agree and confent that the King of England and his Heirs should fucceed him in the Throne. But this was no fooner laid before them, (fays Buchanan himfelf) than all of them with one Voice rejected it with Indignation, and some of them began to meditate a Revolt. Which is yet the more remarkable, that fuch vaftly advantageous Conditions were offered by the then King of England, to bring the Scots into thefe Measures, that it seem'd the Height of Folly not to comply with them; fuch as, the Release of an immense Debt for the King's Ransom, of which no less than 80000 Merks Sterling (which was in those Days of more Value than 700000 l. Sterl. now) was still owing; a free Communication of Trade; that all Dignities civil and ecclefiaftick should be conferr'd on none but Scotsmen; that our Parliaments should be held in Scotland, and the King crown'd there: With a great many other beneficial Articles. to be seen in Mr. Rymer's Fæd. Anglia (f). And, (which above all things should have influenced them) a perpetual Freedom from these destructive Warsbetween the two Nations, which had with little Interruption raged near feventy Years, and which otherwise they had no Prospect of seeing come to an End. And what was it that made them reject those fo valuable Bleffings and Advantages? I can think of

<sup>(</sup>f) Tom. vi. p. 426. and Abercromby's Martial Atchiev.

no other Reason that can possibly be assign'd, but that they could no more think of departing from the hereditary Succession of their Kings, than of giving up the Independency of their Kingdom. Let People talk what they will, that Subjects have a Right to chuse what Kings they please, here we have a Demonstration that the Scots had no such Notion in

those Days.

But further, that our Kingdom was not only strictly hereditary at that Time, but also that the Right was in the Brucean Family, and not in that of the Baliols, we have in a most solemn Manner afferted, in a Manifesto of the Clergy of Scotland met in a national Council at Dundee, 24. Feb. 1309, i. e. eleven Years before the above mentioned Letter to the Pope. From the latter Part of this Deed of the Clergy, the Pamphlet-writer (how ingenuously I leave to the World to judge) draws an Argument to prove that our Constitution was then elective; because forsooth it is there said, That the Right and Title of King Robert Bruce " to the Crown was declared by the Judgment of " the People; That he was assumed to be King " by their Knowledge and Consent: And that be-" ing advanced by their Authority to the Crown. he was thereby folemnly made King of Scot-" land." (g) But had that Gentleman dealt fo fairly as he ought, and given us the former Part of that Act, he would have feen, that a quite contrary Inference is to be made from it. For (as Mr. Anderson, (b) and but badly, translates it) it begins with these Words. "That when there

<sup>(</sup>g) Page 16. (h) Append, Numb. xiv.

17 " was a Controversy between Lord John Baliol " late King of Scotland de facto, advanced by the "King of England, and the deceast Lord Robert " Bruce of worthy Memory, Grand-father of the present King Robert, which of them was nearest in Blood to inherit and reign over the People of Scotland: The loyal People without Hesitation did always maintain, as they did understand from their Fore-fathers and Predecessors, " and were firmly perfuaded, that the faid Lord Robert the Grand-father, was after the Decease of King Alexander, and of his Niece [he should " bave said Grand-daughter] the Daughter of the King of Norway the true Heir, and should " have been preferr'd to the Crown before all o-" thers. And then, after having told, that the " faid Lord John was made Captive by the King " of England, &c, -- and that the People " were spoiled of their Goods, and were by War " tormented, captivated, put in Bonds and impri-" foned, and were oppressed, subjected and en-" flaved, by horrid Butcheries of the Innocent, " and by continual Burnings, and upon the very " Brink of perpetual Ruin; unless by divine Pro-" vidence some speedy Expedient had been found, " (i) for repairing of a Kingdom so defaced and " desolate, and restoring (k) it's Government!" And then after a few Lines, which the Pamphlet-writer has likewise thought fit to overlook; ple

(k) The Word restoring is not in the Original.

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<sup>(</sup>i) It is in the Original, nisi celerius tractaretur, and might better be rendred, unless some speedy Order should be taken, or concerted.

" ple by the Favour of Heaven (1) agreed upon the faid Lord Robert now King, in whom the "Rights of his Father and Grand-father to the " forefaid Kingdom, by (m) the Judgment of the " People, doth yet remain and continue entire (n). After all which follow the Words cited by the abovementioned Author, That the Right and Title, &c. But he omits to add, "With whom all loyal "People will live and die, as with one (0) who, by the Right of Blood and other eminent (p) Vir-"tues, is fit to reign, and worthy of the Name and Honour of a King." That Author indeed confesses, that in this Act, as well as the Letter to the Pope, particularly in the Beginning of the former (which for Brevity's Sake, he fays, tho' I believe for another Reason, he was obliged to omit ) they mention Robert's Right to the Crown by Succession; yet it is submitted, whether they lay the most Weight upon it, or upon their own Consent and Election. I likewise submit it to the Judgment of every impartial Person, that will, without Prejudice and Respect of Parties, read both, whether they lay not the main (and I may fay the only) Stress of the Matter upon King Robert's just Right to the Crown. Do not they say in Terms, than which nothing can be stronger, that in the Controversy betwixt Bruce and Baliol, whether of the two was nearest by Right of Blood to inherit [AD HEREDI-TANDUM

(m) Rather, in the Judgment.

(0) It should be, with him, cum illo.

(p) Orig. cardinalibus.

<sup>(1)</sup> It is auctore Domino, and should be rendred, by the Direction or Appointment of God, or by God's Authority.

<sup>(</sup>n) Rather, are in full Vigour uncorrupted. Lat. vigent, incorrupta.

TANDUM] and reign over the People of Scotland: (Here they call the Kingdom, and it would feem the People of Scotland too, his Inberitance, a Phrase our elective Government-men cannot endure) the loyal People did always maintain, and were firmly persuaded, that Lord Robert was the true Heir, and Should have been preferr'd to the Crown before all others? And do they not afterwards declare, that in their Judgment, and from a Conscience (9) i.e. Conviction or Persuasion, that the Right of Robert's Father and Grand-father did still reside, and was in full Force uncorrupted in him: And that therefore being assumed as King, and set over the Kingdom by their Authority, he was solemnly made King of the Scots. I think I have fairly interpreted their Words; and next am to shew, how the Words assumtus est in Regem, and ipsorum auctoritate regno prefectus, and Rex Scotorum solemniter est effectus, are to be understood in a Sense consistent with what they had faid before; as, I am fure, in the Sense in which our Authors take them, they can not.

And first, I observe, that the Word Election, to which they would have both these Deeds to refer, are not to be found in either of them. They speak indeed of the Assent and Consent of the People; but to what was that, but to what they declared themselves fully persuaded to be just and right?

SECONDLY, As to the Words, that he was affumed, and by their Authority set over them, and made their King, tho' they may at first seem to si-

gnify, that they gave him a Right which he had not before; yet that cannot possibly be their Meaning, for they had above afferted, that in their Judgment, and from a Conviction in their Consciences of the Thing, the Right of Blood, which was in his Father and Grand-father to the Crown, did still subsist uncorrupted in their present King. All therefore that they could mean was, that they, in a publick and solemn Manner, didown and avow him to be their lawful Sovereign, and would adhere to him as such all the Days of their Life.

Bur thirdly, It is further to be considered, that the Word Authority, tho' not requisite on other Occasions, seemed to be necessary on this. John Baliol, who, by King Edward's Arbitration was appointed their King, and whom they, by an anterior Obligation, had bound themselves to accept as fuch, was by that faithless Prince made a Captive, and forced to furrender up the Kingdom to him. The Throne did thereby become vacant, and had no other Government but what that King usurped and most tyrannically exercised over them. The People in the mean Time, impatient of that cruel Slavery, used their utmost Endeavours, under the renowned Sir William Wallace and others, to shake off the Yoke, and recover their ancient Liberty; and tho' their poor abdicated King, John Baliol, could give them no Help, and the Brucean Family, in whom the true Right was, being deluded by his false Promises, sided with the grand Enemy of their Country; yet as the People had then no other to whom they could give the Sovereignty, they acted in the Name, and (as it were) by the Authority

of King John Baliol, until at last that ever glorious Prince, Robert I. Grandson of the Competitor, fet up his rightful, sovereign and independent Title, and undertook to rescue himself and Kingdom from English Tyranny and Bondage. In order to strengthen his Hands, and to unite the Hearts of his Subjects to bring about that noble Design, it was highly fit and proper, that they should by their Authority ratify and confirm that his just Title: By their Authority, I say, but that not in an elective or legislative Capacity, but in a judicative and declarative one: In the same Manner as in all Courts of Justice, in which, tho' all Causes that come before them, are decided by their Authority; yet their Sentences do not make Things just, but only determine that they were so of themselves before. Had the People thought that the Sovereignty was at their Disposal, and that they could give it by Election to whom they pleafed, they had the never enough celebrated Sir William Wallace, whose Merits to his Country were so great and glorious, that, if these alone could entitle him to a Crown, never Scotsman deserved it better than he. But, tho' for his noble Actions he was by the People created Guardian of the Kingdom, and Captain General of its Armies; yet, as he himself had no such Ambition, and the People never thought of fetting the Crown on any other Head, than that to which it rightly belonged; it is plain, that by these Deeds of theirs they designed no more than a publick, folemn, and, if you will, an Authoritative, (in the Sense their Words can only bear) Recognition of King Robert's just and hereditary

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ditary Title, and the due Obedience they owed

him upon that Account.

But, whatever Liberty the People of Scotland might then claim, or have fince exercis'd in the Disposal of the Kingdom, this much at least my Adversaries must, whether they will or not, grant, That in their then settled Judgment and firm Persuafion of the Thing, the Bruce's Right was preferable to that of the Baliol. And this being afferted in the strongest Manner, in general Conventions, both of the Laity and Clergy, I do not see how these Maintainers of the Baliol's better Right (who on other Occasions attribute such a sovereign Power and Authority to the People or their Representatives,) can evade the Force of it. But what will not People say or do, who are resolved to adhere to a Conclusion, tho' they know they have no Premisses (but imaginary ones) to support it?

I might here add, that this Preference of Robert, Bruce's Claim is determined by the Feudal Law, which being then, and a long time before, received in most Kingdoms of Europe, was accounted a kind of the Law of Nations. By it I am assured, that in a Competition among Collaterals, the first Male is always preferr'd, as well in the second as first

Degree of Confanguinity (r).

I pass over the Fables of our Historians, (tho' a great Stress is laid on them in other things by our Author) such as, That Robert Bruce the Competitor, refusing to hold the Crown of Scotland as subject

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<sup>(</sup>r) See Sir James Dalrymple's historical Collections, Pref. p. 29. and Cujacius de Feudis, p. 440. whom he there cires. And of the same Opinion was our famous Sir Thomas Craig, as the Pamphlet Writer, p. 13. acknowledges.

jest to that of England, and John Baliol accepting it on these Terms, for which he was advanc'd to it by Edward I. did thereby forfeit his Right. Whereas it is now certain, that both they and all the other Competitors, with the chief Nobility and others, did (but compell'd thereto) equally subject it and themselves to that Homage. Again, That the Earl of Glocester, upon King Edward's declaring for John Baliol, told him, that he had given a wrong Sentence, for which God would judge him at the last Day. Also, That John Baliol, then a kind of Prisoner in France, hearing of the noble Acts of King Robert, and how he had reinstated the Kingdom in its former Liberty and Independency, did. surrender up to him and his Heirs all the Pretensions be and his had to it for ever. And lastly, we are told by the Book of Paifley, That, John Baliol's Father and Mother being within the probibited Degrees of Confanguinity, tho' a Dispensation was sent by the Pope to remove that Impediment; yet, as it and the Bearer of it were lost in the Water of Dee in Galloway, the Impediment still remain'd, and their Children thereby continued illegitimate. These, I firmly believe, are all idle Stories, contrived (I suppose) to support King Robert's Title; when, from what I have faid, it appears there was not the least occasion for them. Whatever was the Rule of Succession in private Famihes at that time and fince, which we have feen to be very variable; yet, as we have the Judgment of feveral Kings, and of the Representatives of the People oftner than once, declaring and afferting King Robert's preferable Right, we must either fubmit to their Determination, or fay that they

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prevaricated in the Matter, or were grosly ignotant of their own Constitution. To affirm this of our chief Nobility at this Day would be reckoned a high Crime and Misdemeanour, and an intolerable Imputation upon the Honesty of the Clergy, who were the only learned Men among us at that time; especially when these last conclude with these Words, Et in signum, testimonium & approbationem omnium pradictorum, non vi compulsi, nec dolo inducti, aut errore lapsi, sed pura & perpetua ac spontanea voluntate, buic scripto sigilla nostra fecimus apponi.

Is my Antagonists will needs oppose their private Opinions to the often repeated and most solemn. Verdict and Declaration of a whole Kingdom, I cannot help it; but they will allow me to regard it, and submit my Judgment to it. What they say therefore of John Baliol's preferable Right, is purely a begging of the Question; which being denied them, all the Inferences they draw from it, as having no Foundation, must fall to the Ground.

And,

Particularly what our Author (s) tells us, from the Gentleman he so much relies upon, that he gives us a short Hint of another Interruption of the hereditary Right, by the Claim made by William Earl of Douglas at the Accession of Robert II. But how comes our Author to call it an Interruption? Did ever that Earl of Douglas ascend the Throne, or get Possession of the Kingdom? That Gentleman does not, nor could say, that there was any Interruption. He says indeed (t), (and that

<sup>(</sup>s) Page 4.

Is more than he ought) that, failing John Baliol and his Son Edward, the hereditary Right fell, by his Proximity of Blood to them, to this Earl of Dous glas. And, to give the Matter the stronger Weight, he adds. " That this Earl was fo well convinced " of his hereditary Right, and infifted upon his " Claim to fuch a Degree, that Robert was fain to " give him (u) his own Daughter in Marriage to "appeale him." Our Historians indeed relate, that this Earl of Douglas did at that time claim a Right to the Crown; but finding his Suit was ungrateful to, and rejected by all, and especially by his own most intimate Friends the Earls of Dunbar and Murray, as being convinced, from what I have faid, that the Right was formerly in the Brucean, and now in the Stewartin Family, he foon dropt his Pretentions. King David Bruce died on 22d February 1371, and Robert II. his Successor was crown'd on the 25th of the enfuing March, i. e. thirty one Days, or a Month, thereafter. Two Days after that was a Declaration made, the most folemn that perhaps was ever made in any Nation, confirming not only Robert II.'s own Right to the Crown, but also afferting, affirming, declaring and recognizing [these are the Words of the Act] John his Son to be his Successor and true Heir, to which this same Earl, with fifty others the chief Men of the Kingdom, appends his Seal. From which, I think, it appears, that the Earl did not much infift on his Claim, and we are fure that he foon past from it. What our Authors add, that King Robert was fain (says the one) found it necessary (says the other)

<sup>(</sup>u) He should have said his Son James, afterwards Barl of Douglas.

other) to give his Daughter to William's Son in Mar riage to appeale him; our Historians say no such thing, but only that the King gave his Daughter to Earl William's Son in Marriage, in order to ty that Family to himself in a more strict Bond of Friendship. What Hume, in his History of the House of Douglas, affirms (v), " That upon the Earl of Douglas's delist-" ing from his Claim, the King gave his eldeft Daugh-" ter to the Earl's Son, that, failing Heirs-male, the " Crown might then fall to his House," is absolutely without Foundation. This Daughter of the King that was given to Earl William's Son, was his Daughter (as we shall evince afterwards) by his second Wife Euphame Ross. By his first Wife he had, besides three Sons, John, Robert and Alexander, then alive, no fewer (as Mr. Crawford (w) reckons them) than fix Daughters, Marjory, Fean, Elizabeth, Margaret, \_\_\_ and Geils, most, if not all of them, married before this time, none of them to Persons of a superior, and some of them to Persons of an inferior Rank to the Earl of Douglas. How remote a Prospect then could the Heirs of that Marriage have of succeeding to the Crown? Besides, her Name was not Eupheme, (as Boece and some others call her) but Isabel (x); and James Earl of Douglas her Husband had no Issue by her.

HAVING clear'd our Way thus far, proceed we to our Rev. Author's 6th Page, wherein he tells us, "That the Pretender in his Declaration, dated at Rome, December 23d 1743, boasts that his Pro"genitors

<sup>(</sup>v) Page 87.

<sup>(</sup>w) Hiftory of the Family of Stewart, p. 17.

<sup>(</sup>x) Ibid. p. 19.

genitors have fwayed the Sceptre (of Scotland) " with Glory, through a longer Succession than " any Monarch on Earth can boast of." As to the Pretender, I have nothing at prefent to fay to him nor to his Boasting. But the Thing itself is true, that the Kings of Scotland of the same Race have longer swayed the Sceptre of the Kingdom, than any Monarch now in Europe, and I believe the whole World can boast of. And this has been said Hundreds of Years and Millions of Times before he or the Pretender was born. " But, adds our " Author, King Charles II. did not boast of his "Progenitors, when he granted a Licence for " printing a chronological Table of the Kings of " Scotland -- by which the blackest Characters " of many of our Kings, his Progenitors, are licens'd " to be published: Nine of them it brands, for be-"ing cruel and bloody Tyrants, the 5th, 8th, " 11th, 13th, 20th, 22d, 26th, 35th and 36th; " others of them are described to be wicked and "vitious, the 16th, 23d, 54th and 77th. Are " these (fays he) to be mentioned with Renown! " Is it a Glory to be descended of Tygers for "Cruelty, and Monsters for Impiety? Is not "this to glory in their Shame? -- Besides these, " (continues he) three of our Kings laid violent " Hands upon themselves, the 29th, 52d and the " 70th. And then concludes, It is pity ever such "Men were numbred in the Catalogue of our "Kings, their Memory must stink or rot for ever." I am not furpriz'd to find our Author (according to the Custom of his Party) despising Dominions, speaking evil of Dignities, and throwing out railing Accufations against Kings; tho' the Arch-D 2

ingel Michael durst not bring one against the Dewil himself (y), whom our Author, I hope, will allow to be worse than the worst of our Kings. But I believe, at the Bottom, his Spite is not so much against our ancient Kings, as against some others of more modern Times, especially those of the Family of Stewart; for no other Reason that I can fee, but because they would not be subject to Presbyterian Tyranny. But here I would have thought, he might have spar'd King Charles II. as he founds the Credit of that chronological Table (upon which he lays fo great Weight) on that King's Licence for printing it; tho' he owns in the very pext Page, that that King had perhaps never looks

into it.

But, to be more serious with our Author; 1/1, If in fo long a Race of Kings (of whom in that fo much valued Table, King Charles II. is numbred the 110th) severals have been bad and vitious, what could King Charles help that? 'Tis a filly Kin (as the Proverb has it) that has not a Whore or a Thief in it. And had our Author's or my Progenitors been of fuch Consideration in the World, as to have our Genealogies traced that far backward, neither he nor I are fure, but as many bad Persons of the one or other Sex were among And I might add, that those that move in the highest Sphere of worldly Power and Grandeur, are liable to many Temptations, which private Men, such as the Author and I, are free from; and that therefore confiderable Allowances are to be made for their Wickedness and Folly, which others have not so much Reason to expect, or plead for.

adly, I add, that of these sixteen bad Kings our Author mentions, only three were King Charles II.'s Progenitors. For Nothatus the 5th, Thereus the 8th, Gillus the 13th, Dardanus the 20th. Lugtacus the 22d, Satrael the 28th, Fincormachus the 35th, and Romachus the 36th, who, he fays, in that Catalogue are represented as cruel and bloody Tyrants: As also, Evenus III. the 16th, Mogallus the 23d, and Ferchard II. the 54th, who are faid to be vitious: And Ferchard I. and Donald V. our 52d and 70th Kings, who are faid to have laid violent Hands on themselves; tho perhaps some of them left Issue, yet none of our after Kings are descended of them. Besides, our Author is in the wrong, when he represents Fincormachus the 35th and Indulphus the 77th as bad Princes; when, in that Table, the former is faid to have been a godly King, and a great Promoter of the Gospel of Christ in Scotland, and the latter, a good and valiant Prince. But this is probably a Mistake of our Author or his Printer in the Numbers or Figures; a Fault, tho' very pardonable, yet which he will not forgive to the Earl of Cromarty and others, as we shall see afterwards. There remain therefore of all his black List only three, Dur-Aus, Athirco and Ferchard II. who were Progenitors of King Charles II, I much wonder, when his Hand was in, and he has shew'd so much Inclination to stigmatize the Memory of our ancient Kings, that our Author should have omitted out of his List some more that are reckoned bad in that Catalogue, viz., the 43d, 56th, 58th, 62d, 63d, 72d, 79th, 81st, 82d, 85th, 87th and 88th, of all which not so much as one was a Progenitor of our Royal

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Royal Family. If then of the other Kings, real Ancestors of King Charles II. only three were wicked Men, and, if you will, cruel Tyrants, what, in the Name of Goodness, could hinder him or any other of the Royal Race, by the Character given of the far greater Part of them, even in that Table, to fay that they were lineally descended from good, as well as high and noble Progenitors? 3dly, Bur suppose, that all of them before our Malcolm III. firnamed Canmore, were bad and vitious Princes, (as, I bless God, many of them, and, I believe, most of them were not) yet King Charles II. might have, and very justly, boasted, that he was descended of a greater Number of Kings, adorned with all the Virtues becoming their high Station, than any Monarch on Earth can boast of. For among them, abstracting from Donald Bane, Duncan II. and Edward Baliol, (whom I reckon Usurpers) we have thirty Kings and one Queen, who were all Princes of eminent Virtues. Two of them indeed have been represented otherwife by some of our Historians, viz. King Fames III. and Queen Mary. But the Reproach and Scandal cast upon their Names, has in some measure already, and I hope will hereafter be fully and entirely taken off, and their excellent Qualities fet in a clear Light. But what thinks our Author of our K. David I. who for his fingular Piety was called the Saint, and whose unparallel'd Endowments and glorious Actions were fuch as made Buchanan himfelf, tho' otherwise no great Friend to Kings, say of him in the Dedication of his History to King Fames VI. Neminem in ullis rerum reperias monumentis, quem cum DAVIDE nostro conferas. Who

Who is it that would not glory of being descended of such a Prince as this, whose Virtues were so great as might have aton'd for the Vices of severals of his Progenitors? Our Author should have considered these Words in his savourite Historian, and especially those that go immediately before, Sunt inter majores twos in omni laudis genere viri prestantes, & quorum nullam unquam posteritatem pigebit; Otherwise he would not have past over our good Kings, and pickt up such only as his Table represents as bad, in order to make Posterity to be askamed of them. But, that Table of his, and the Historians it is taken from, are egregiously in the wrong to the Memory of almost all those Kings

whom it and they represent as bad. For,

4thly, WHAT is faid of twelve of these Kings, is entirely fabulous. They fall within the Period before our Fergus II. all which our Author, (forgetting what he has here faid of them, afterwards (z) with Dr. Llhoyd, Dr. Stilling fleet and Mr. Innes) gives up as Non-entities, and confequently incapable of doing any thing good, bad or indifferent. Fordon, the oldest, and therefore the most to be credited among our Historians, after he had settled Fergus I. on the Throne, about 330 Years before the Birth of CHRIST, yet in the Continuation of his History, tho' he speaks of the Scots as a People. ind of the Wars they had with the Romans, Piets and Britons, yet, except Reuda, who is now recconed the 7th of our Kings, he never so much as nentions the Names of any other, till he comes to Fergus II. whom he calls the Son of Erth and Grand-

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Grandson of Echadius, the Brother of Eugenius, whom our other later Historians make the last of these thirty nine Kings that preceded him. If then, according to our Author himself, twelve of these Kings before Fergus II. never existed, I hope he will allow me to say, they were not vitious. But,

5thly, This is not all; for Fordon and our most ancient Historians give us very different Accounts of those of our Kings, whom our Author from his infallible Table reprefents as vitious and tyrannical, after the Time of our Fergus II. Of these he mentions three, Ferchard I. our 52d, Ferchard II. our 54th, and Donald V. our 70th King, to whom he might have added Ambirkeleth our 58th. Ferchard I. fays the Table, killed himfelf; but Fordon does not infinuate any fuch thing, but fays only, that he reigned ten Years, that nothing memorable bappened in his Time, and that he was buried in I. colmkiln. The next, Ferchard II. is in the Table said to be a very wicked Man; but Fordon, on the contrary, that he held the Kingdom eighteen Years, and governed it in Peace all that Time. Of the 3d and last of these, viz. Donald V. says our Author from his Table, that he flew bimself; but Fordon represents him as an excellent Prince, that he reigned twenty one Years, and that at last having gone the Way of all Flesh, (which I hope does not fignify that he was his own Murderer) he was buried with his Forefathers at Icolmkiln. Of Ambirkeleth our 58th King, fays the Table, that he was a vitious Prince; but Fordon fays no fuch thing, but only that in the first Year of his Reign, bellum adversus Pictos inconsulte, soluta pacis conditione, paravit, and that in the first Inroad he made upon their Country,

Country, he received a Wound by an Arrow, of which he died on the tenth Day after. But this does not make him a bad Man; no more than it did Jofiah, one of the best, or rather absolutely the best, of the Kings of Judah, who had the same Fate.

I take the Freedom to give two Instances more of the Difference between our older and later Wri-

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THE first is of Maldwine, whom these last make our 55th King, and say, he was strangled by his Wife, who suspected him of Adultery, (a) for which she was burnt alive: But our other more antient Historians mention no fuch thing, nor brand either him or her with that or any other Wickedness. They relate indeed that such a thing happen'd to Fergus III. near eighty Years after, who was from a groundless (nimious or too great) Jealoufy she had conceived of his Familiarity with other Women, poisoned by his Wife. From this Boece, Buchanan, and the rest, probably bring the above mentioned Story concerning King Maldwine; but with this confiderable Difference, that it is faid by Fordon, that King Fergus III.'s Wife, after she looked on her Husband's dead Body, being struck with the Horror of her Crime, (for which he puts a dreadful Outcry against herself

<sup>(</sup>a) Upon this, the Author of an Introduction to a Collection of Histories or Memoirs of Scotish Affairs in our K. Charles I.'s Time, that was some two or three Years ago designed to have been published, makes an Inference, that as Maldwine's Wife was by the States of Scotland put to Death for murdering her Husband: So might they, and ought they, to have done with him, had he been guilty of that Crime.—'Tis pity that Author did not live in K. Charles I.'s Reign; for if he had, Cromwel could hardly have chosen a fitter Assessor to have fat with President Bradshaw on that King's Trial.

In her Mouth) she first took Poison, and then in the Presence of those about her, stabbed herself with a

Poniard to the Heart.

THE fecond Instance is of Kenneth III. who, as all our Histories agree, settled the Succession of our Kings (which was formerly somewhat loose and irregular) in the direct hereditary Line. He (fay our modern Writers) to make Way to the Succession of his Son Malcolm II. according to his new Law, caused Malcolm Prince of Cumberland his elder. Brother Duffus's Son, who had a better Right to the Crown, to be privately made away by Poison: That being terrified by a Voice from Heaven, which denounced the Judgment of God against him for that crying Sin, tho' he confessed it to a holy Bishop St. Movean, and underwent a severe Penitence for it, according to the Piety of these Times; yet he did not escape the Punishment due to it, but was killed by an Arrow fhot from a mechanical Statue contrived by a Lady called Fenella. Fordon indeed gives that Account of the Manner of his Death, (which by the bye looks very fabulous, and so Jo. Major reckons it;) but neither he, Follon, or any of our more antient Writers, speak of the Murder of Malcolm Prince of Cumberland by King Kenneth. All they write of the Matter is, that Kenneth in the 20th Year of his Reign, after the Death of Malcolm the Son of his Brother Duffus Earl of Cumberland, got his own Son Mal colm (who was afterwards King) acknowledged Lord of that County by Ethelred King of England. Dr. Abercromby is mistaken, when he says that the new Law of Settlement was twenty Years before the Death of this 1st Malcolm Earl of Cumberland: Where

Whereas Fordon's Words rather infinuate that it was not made till after his Death; and Boece, Lefly

and Buchanan are express in the Matter.

From these Disagreements of our Historians, (and I could produce a great many more) we are somewhat at a Stand which of them are most to be credited. Our Rev. Author, as he seems not to be much a Friend to Kings, has thought fit to follow our more modern Writers, who charge many of our Kings with Vices and Crimes which our prior Historians free them of. I on the contrary, who have a Veneration for the Memory of all good Kings, and love to speak decently even of bad ones, chuse rather to rely on the Faith of those our more antient Writers, and that more especially that if I err, I err on the charitable Side.

HAVING thus gone through so much of our Author's Introduction, as I am concern'd with in this Dispute, I go on to the Treatise itself; in the Beginning whereof he attacks a Note, I had made on Buchanan's History, p. 432. c. 1. where I have these Words; "Cum enim regnum Scoticum, non " ex Ordinum suffragiis pendeat, sed jure sangui-" nis hereditario in genere proximos continuò de-" scendat," The leaves out the following Words, which are necessary to connect the Sentence,] " pla-" nè consequens est, nullum hîc interregnum fieri, " fed uno rege mortuo, alium statim in ejus lo-" cum, & ita deinceps, perpetuo tenore, lucce-" dere,] eodem jure, quo filii in parentum de-" functorum bona & possessiones dominium proti-" nus acquirere solent." These Words of mine, at least so many of them as he has thought fit to cite, our Author translates, not altogether fairly, in-

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to English; and then adds, "Thus, according to Mr. Ruddiman ( fays be, and the Pamphi let Writer had made much the same Observe (a) " one Man by his Proximity of Blood has a Right " to possess Nations, Millions of his fellow reason-" able Creatures, as his natural Inheritance, as " much as he does his Herds of Cattle and Flocks of Sheep. But, continues he, I am fure there " is a vast Difference between moral free Agents " and brute Creatures. I can never degrade " the Dignity of my Nature fo far, as to " think I am on the same Level with them; "God having given to Man a Right of Domini-" on over them." And then, after passing some Compliments upon me for some Things I have published, he adds, " As to the hereditary Right " of the Kings of Scotland in the strict Sense, he " cannot be of my Mind." And then tells me; " That as that is my favourite Opinion, I have faln " into several Mistakes, by taking too many "Things upon Trust, without due Examination, " and relying upon a Train of high flying Writers " in my Annotations."

To all which, I answer, in the first Place, That I wish our Author and those of his Party were as little fond of favourite Opinions as I am. I declare, I have no Fondness for any Opinions but what appear to me to be founded upon eternal Justice and Truth; and so long as I apprehend them in that Light, I will not easily be brought to depart from them by any Writer whatsoever, when

to many by them as he has thous

ive, our August translates, not al desther in

ther he fly high or low. But,

2dly,

<sup>(6)</sup> Page 5:

2dly, HE attributes to me an Opinion, not only false in itself, but which the highest Flyer that I know of did never maintain, nor so much as ever dream of. For, which of them ever faid that a King (be his Right ever so much hereditary, absolute and indefeasible) may lawfully dispose of his Subjects, as he can do of his Herds and Flocks? There have been some barbarous Tyrants, but of those many more that had no hereditary, nor any other Right, who have been Butchers and Destroyers of their People, as well as Invaders of their Goods and Properties. But who ever faid they had a Right so to do? but on the contrary, that the Vengeance of Heaven would overtake them, either in this or the next World, for such their cruel and unjust Practices? Mr. Ruddiman, I am fure, had not the least Intention to allow such a Power to belong of Right to the most absolute Monarchs; far less to fuch as had their Government limited by Laws. All that he fays is, that by our Constitution, the Right of Succession does not depend upon a previous Election of the People, but that immediately upon the Death of one King, the next to him in Blood by hereditary Right succeeds to the Kingdom or Government. I do not say, eodem modo, in the same Manner, as our Author would needs translate my Words, but eodem jure, by the same Right, (viz. fanguinis bereditario, as is said in the same Sentence before, with which Words these ought to be construed,) that Children acquire a Right, or, if you will, a Dominion, to the Goods and Possessions of their deceast Parents. There is a Right or Dominion that all Kings (I mean lawful ones) have over their Subjects; as well as they again have over their Goods

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Goods and Chattels. But who ever faid, or how can it be inferr'd from my Words, that I should think that this Right or Dominion was to be exercifed the same Way by both? The Words dominus and dominium are taken in different Significations. Of old, and in the strict Acceptation, they denoted Property, in which Sense they were opposed to fervus and fervitus, i. e. Slave and Slavery. For in those ancient Times, Masters could use their Slaves, who were then their Property, as they pleased, and even put them to Death if they had a mind, without being accountable to any for fo doing. But afterwards the Words dominus and dominium came to be applied to Government, and to fignify that Right, which every lawful Superior, especially Kings, have over their Inferiors or Subjects. I hope I need not give a Proof of this; all our Lawbooks and other Writings being full of it. Do they not all call the King supremus Dominus or sovereign Lord; and the People not only feverally but conjunctly and representatively, call themselves his humble Servi & Subditi, Servants and Subjects? And tho' they oftentimes promife to ferve him with their Lives and Fortunes, do they thereby grant him a Right to cut their Throats, or feize upon their Estates, when he shall take it in his Head? I doubt not but it will found ill with fome Men, to hear a People as well as the Kingdom called the King's Heritage; and yet in that famous Letter to the Pope, the States and whole Community of Scotland, do not stand to call themselves the People, and the Kingdom the Inheritance of their then King Robert I. And does not King David fay, (a)

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that God had given him the Inheritance of those that feared his Name? Augustus Casar indeed declined that Title, as thinking, that in the high and first Acceptation of the Word Dominus, it might import that he was an Emperor of Slaves. But most of his Successors got over that Scruple; and yet, for as absolute and tyrannical as many of them were, they did not use it in that high Sense; but only meant by it, that they were the supreme Rulers or Governors of their People: And so far were the very worst of them from thinking that that Name gave them an unbounded Right over the Lives and Properties of their Subjects, that they were allowed to profecute their Law-fuits, and recover what was unjustly detained, or taken from them, even by the Emperors themselves. Which is the Practice in all the absolute Governments in Europe, as France, Denmark, and that of the Princes of the Empire (who are as absolute as any) to this Day. This double Acceptation of the Words gave Rife to the Distinction between the dominium directum. and the dominium utile. By the former is understood that Right which the King, as Superior and Lord-paramount, has to all the Lands in his Kingdom; but by the latter, that Right by which the Subjects severally possess their own particular Estates and Inheritances, which nothing but Treason and Rebellion can justly divest them of. Upon this is founded that Maxim of the Lawyers, that Rex est nomen jurisdictionis, non dominii, meaning the dominium utile; but that the dominium directum does belong to him, I know no Lawyer has the Confidence to deny. There are some who attribute all Dominion to the People, and stick not to call

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call them their fovereign Lords and Masters: But that is a Stile our Laws are altogether unacquainted with. Where is Mr. Ruddiman's Fault then, that he speaks the Language of all the Laws and Statutes of the Kingdom, which yet with his Adversaries are of the highest Authority in all other Cases?

But he fays, that the Kings of Scotland do fueceed immediately to their Predecessors, without waiting for the Suffrages of the People; and reckon the Beginning of their Reign from the very Day on which the former Kings died. And is not this true? Is it not a standing Maxim in our, as well as in the English Laws, that Rex non moritur? which, tho I mention in the very Note our Author finds fault with, yet he has thought fit to overlook it. And, unless some Contentions arise about the Right of Government, and the Kings de jure and de facto, is not that the Rule to this Day? Did not our King Fames VI. immediately fucceed to the Crown of England upon the Death of Queen Elizabeth, and was (as the Act of Parliament recognizing his Right expresly tells him) proclaim'd King within two Hours after she resign'd her Breath? Did not Queen Anne so succeed to King William? And was not King George I.'s Accession to the Throne reckoned from the Day on which that Queen died; as is that of his present Majesty from the Day of his Father's Death, tho' for some Days after it was not known? What shall we do then to please those Authors, unless it be to put out our Eyes, that otherwise cannot but see so glaring, so manifest a Truth!

My Antagonist goes next to criticize upon the Propriery of my Language and Diction. I own I am no Lawyer, and so perhaps may have fail'd in not using such proper Words and Phrases, as those do who have been bred to that Profession. And yet I think my Words are so plain, that none but those who have a mind to cavil can readily mistake them. This, I am afraid, is the present Case with Mr. Logan: For, says he (d), "I expected that " our learned Annotator knew more of our Law " than to affert, that Sons (filii) indefinitely ac-" quire an hereditary Right to the Estates of their " deceast Parents; for the Law of Scotland makes " the Inheritance go to the eldest Son." Our Author being sensible that these Words of his were a mere Quibble, he immediately after corrects himfelf, by adding, " But I am apt to think that by " filii he does not understand the Sons of the same " Father, but the primogeniti, the eldest Sons of " distinct Fathers, who have Estates to leave be-" hind them at Death." But even in this, as in many other Places, he puts a wrong Gloss upon my Words; for whoever reads them with a fingle Eye, cannot but evidently perceive, that in this Comparison I did not, nor could intend to distinguish between the Laws of Scotland and those of other Countries, or whether these Goods and Pofsessions were real or moveable, or whether the Children that were to succeed to them were one or many, Sons or Daughters, (for the Word filii will take in both) but only meant in general, that as by the Laws of the whole Earth, as well in Scotland as

Possessions of their predeceast Parents: So did our Kings, by a natural hereditary Right, succeed directly and immediately, in a lineal Order, one after another, to the Government of the People and

Kingdom.

It is pleasant by the bye to consider, that a little above, my Author, as well as the Pamphlet-Writer, would apply my Words of Goods and Possessions to Herds of Cattle and Flocks of Sheep, as if I intended thereby to put Men and Beasts upon a Level: But here forgetting, at least dissembling, what he had said, he will needs apply them to Lands and Estates only; adding, that, by the Law of Scotland, these fall to the eldest Son; whereas I speak of Goods and Possessions in general: And I hope that the Law of Scotland is not so cruel, as to ingross all these to the eldest Son, and leave nothing to the other Children.

My Author adds, (e) "Besides (says he) I do "not understand the Phrase, acquiring a heredita-"ry Right; for an hereditary Right is that which "one is born to: And the Gentlemen of Mr. "Ruddiman's Opinion speak of a Kingdom's be-"ing the natural Inheritance of the Prince." And is it not of such a Right that I am speaking, both with respect to Kingdoms, and also to private Goods and Possessions, whether moveable or immoveable? But he cannot away with the Word acquirere, as if that ought to be applied only to what a Man purchases with his Money, or obtains a Right to, by some particular Conveyance, and not to that which

which he is intitled to by Derivation from his Parents. As to which last, for as ignorant as I am of Law, and the proper Phrases in which it is to be exprest, yet I cannot be far wrong here in the Application of the Word acquirere; when we have a Title in the Corpus Juris, Digeft. lib. 41. tit. 1. De acquirendo rerum dominio, the very Phrase I make use of. In the first Words of that Title it is said, Quarundam rerum dominium nanciscimur (which is but another Word for acquirimus) jure gentium, quod ratione naturali inter omnes homines peraque servatur. And what is that Law of Nature and. Nations, which is observ'd among all Mankind, but that natural and bereditary Right by which Children succeed to, or acquire a Property in, the Goods and Possessions of their deceast Fathers? If this is not sufficient to justify my Use of that Phrase, take another yet more parto the Purpose: It is the 29th Book of the Roman Pandects, where the 2d Title is inscribed, De acquirenda vel omittenda hereditate; which Phrase runs through a great many Laws, not only in that Title, but in other Places of that great Collection. And what, in the primary Signification of the Word, is hereditas, or Inheritance, but what one is born to, as Mr. Logan expresses it? And what is that whole Title taken up with, but the pointing out the Persons to whom such an hereditas does belong, and the things that fall under that Name? I am not ignorant, that Heritages may be, and frequently are disposed of to those that are not nearest in Blood to the last Posfessor; and that that Person, whoever he is, to whom an Heritage is dispos'd, may be rightly called the Disponer's Heir, and the Goods or Estate, 

his Inheritance. But 'tis plain I was not speaking of such, but of those only that naturally ought to succeed, when there are no particular Destinations to the contrary: And if the former can be said to acquire an Heritage, much more can the latter; who, if the Relation they have to the former Possessor be considered, has the only Right to it. The one acquires it by the Will and Appointment of the former Proprietor, the other (when there is no such Destination) by the universal Law of all Countries, by which the nearest in Blood succeed to the Estates or Goods of their deceast Relations.

Bur however we differ in this, yet I am glad that my Antagonist and I seem to agree in what follows. He fays, that, as to the Succession of Kings, he is of the Sentiment of the learned Grotius; I heartily join Issue with him, and submit the Matter to that great Man's Determination. That it may appear whom he sides with, I shall set down his Words as our Author (f) has given them. " Succession, says he, of itself doth not denomi-" nate the Manner, nor specify the particular " Form of the Government, but only a Continua-" tion of that Right which was at first settled, and " as much as was first given is afterwards conti-" nued by Succession, and no more. Succession " only brings down to Kings, what was at first a-" greed on, at the first Admission of their Proge-" nitors to the Exercise of their Royal Authority." This is the Text of that incomparable Author (g), let us see then, whether my Antagonist or I have hit best on the Interpretation.

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<sup>(</sup>f) Pag. 12.

<sup>(8)</sup> De jure belli, &c. lib. 4. cap. 3. § 10.

How Kingdoms came at first to be established in the World, whether by paternal Right in the Heads of Families, or by Conquest, or by the Election or tacite Submission of the People; as Gratius does not, so neither is it my Business now to enquire. But then he tells us, that when ever a Government is once settled (whatever Form it is of) as much as was first given is afterwards continued by Succession: And as to Kings, what was first agreed at the first Admission of their Progenitors, so much is brought down to them in the Exercise of their Royal Authority. Tho' these Words may feem chiefly to relate to the Rules to be obferved by Kings in the Administration of their Government; yet his Argument will equally hold in the Rule of their Succession, i. e. if the Succession was agreed upon to be hereditary in the Family of him who was first advanced to the Throne, it was to be continued fo to all Generations. But if the Succession of every King was to depend upon the free Election of the People, then no Person could claim an hereditary Right to it. Tho' I believe what our Historians write of Fergus I. and a great Number of his Successors Kings of Scotland, is generally fabulous; yet granting it to be true, as our Author does, we will fee what will follow in the Opinion of Grotius. Sometimes they write that he made himself their first King, and sometimes that he was fent for from Ireland, and chosen King by the Heads of the Tribes in Scotland. Be that as it will, and as they no where specify, whether his Government was to be absolute, or whether fome Limitations were put upon it; so no Inference can thence be made, what Power was there-

by brought down to bis Successors in the Exercise of their Royal Authority. But in this all our Histories agree, that after King Fergus I.'s Admission, the Succession to the Kingdom was confirm'd by the Oath of the whole Community to the Heirs and Descendents of his Body for ever. Here then we have a most folemn Settlement, by which the Succession to the Kingdom was entail'd on the Posterity of Fergus I. and them only; and that none other could be admitted to the Throne without a direct Violation of this their Oath, which they thought then was obligatory upon their Posterity as well as themselves. 'Tis true, they thought it no Breach of their Oath, that when the next in Blood was a Child or Minor, his Uncle or other nearest Relation, that was of fit Age, should not only succeed to, but enjoy the Crown all his Life. Which Rule of Succession. according to all our Historians, continued after for many Generations; till Kenneth III. observing the Inconveniencies, fay fome of them, (but fay I, (b) the Troubles and Miseries) that were brought upon the Nation by this irregular Manner of Succession, did, with the Consent of all the Nobility and People, except a very few that had their own ambitious Views to serve, make a new, or a more fixt Determination of the old, Settlement; by which it was enacted, That for the future, the Crown should descend to the next Heir by lineal Descent,

<sup>(</sup>h) H. Boethius, lib. ii. fol. 13. thus describes them; Hanc Regis dicendi rationem nastri aliquot secula sunt sequuti: experti tamen frequentius patruos nepotibus, nepotes patruis patruelesque mutud regnandi eupiditate capitalia parasse: multorum inde Regum & Principum cades, non sine magna reipub, jactura, sequutas.

whether young or old, Male or Female. Which Law of Succession has continued the only rightful Rule of the Admission of our Kings to the Throne to this Day, i.e. for near eight hundred Years; a longer Space of Time than almost any Kingdom in Europe can now boast of. Here then we have two Settlements, and not a Word that the Succession should go by the Election of the People, in either: And accordingly, and in conformity to Grotiu's Argument, did and ought the Successions.

fion of our Kings to proceed.

MR. Logan fays, that Fergus I. was a Foreigner, (but, as he was a chief Prince among that People of whom the Scots themselves were defcended, he hardly can be faid to deferve that Name) and that Scotland was not his Inheritance. To avoid Dispute, I shall grant it; but then I hope that after he was King it was his Inheritance, and being confirm'd to his Family upon his Death, it became theirs, as much as a Kingdom can be called an Inheritance. He adds, That he and the Chiefs of the People came at that Period under an Agreement and Contract, as to the Form and Limitations of the Government. As our Author is ready to damn all Charters and Contracts that thwart his Purpose, I wish he could produce that Magna Charta, that original Instrument and Indenture entred into between Fergus I. and his People, or at the first Settlement of any Nation in the World. For no Doubt in one or other of them is contain'd this Article, That if the King or his Successors should prove false to their Engagements, the People was to have a Right to arraign, judge, condemn, and to depose or put them to Death if they deserv'd

deserv'd it! Hector Boece tells us, that the Act of Settlement, confirming by Oath the Scotist Kingdom to King Fergus I. and his Heirs, was engraven on Marble Tables: And he does well to add that it was in hieroglyphick Characters, (which it would feem Gathelus the first Founder of the Nation, with his Queen Scota, brought along with them from Egypt;) for at that Time it is pretty certain that we had not the Use of any other Letters. But neither he, nor Buchanan, nor any other of our Historians, either antient or modern, make the least Mention of any Limitations or Restrictions put upon the Prince; far less of his submitting himself, or his Heirs, to be impeach'd by the Subjects for any Misdemeanour they might be guilty of. Our later Historians indeed (tho' the more antient do not give us so much as one Instance of that Kind) relate, that several of our Kings (and our Author feems to be glad that he has found fo many) have, either for real or supposed Misgovernment and other Vices, been deposed or condemned to Death by their People. But none of them say that the Government did thereby fall jure devoluto into the People's Hands: but, on the contrary, that, according to the original Settlement, the nearest in Kin, tho' a Son, if of Age, did succeed to the Crown in the wicked King's Place.

From what I have faid, it appears that the learned Grotius and I are agreed in our Sentiments; but I will not fay so of the next Author that Mr. Logan brings upon the Stage, viz. the Earl of Warrington. He was a great Stickler for the Bill of Exclusion in King Charles II.'s time, when

People's

People's Passions running high, they were apt to advance any thing, right or wrong, that would promote their darling Projects. But all our Author makes him fay here, is without Foundation. His whole Reasoning turns upon the double Acceptation of the Word Heir. He says, the Duke of York was not then the apparent Heir of the Crown. In this indeed I agree with him; for the Duke of York was never Heir apparent, that Title belonging to none but the eldest Son of the Prince regnant. He was however presumptive Heir, so long as his Brother had no lawful Issue. But, as the Queen might have died, and the King might have had Children by another Wife, then certainly the Duke would ceafe to be Heir in any Sense But nothing of that can be faid of an eldest lawful Son; for however many Wives the Father may have, and however many Children they may bring him, the eldest always continues Heir; and in Things of an hereditary, much more of an indivisible Nature, as Kingdoms are, if he outlives the Father, he ought to be his Successor. I own, that in the strict Acceptation of the Word, Heir and lawful Successor fignify the same thing; for, properly speaking, Nemo est heres viventis, nor ought to be called so, till his Predecessor is dead, and he has succeeded to him. But where did that Earl find the Distinction betwixt the Heir of a Crown and the Heir of a private Estate, and that with Subjects, the Son does not succeed, but inherit. This is a Doctrine I am not acquainted with. Sure I am, that all our Forms, whether publick or private, run in another Strain. Do not our Acts of Parliament speak of the King's Heirs and Succes( 50 )

fors? and is it not thought, that our publick Oaths bind the Subscriber's Allegiance and Obedience to the Heirs and Successors of Princes regnant, as well as to themselves? And again, in Transactions among Subjects, do not they commonly bind themselves, their Heirs and Successors, to perform what is stipulated in them? Hence we see, that the Word Heir is equally applied to the Successors of Crowns as to those of private Estates. How then can that Earl say, That the Law of England knows no such thing as an Heir to the Crown? I hope their Acts of Parliament are Law, and they frequently speak of the King's Heirs. And is no more meant by that Word, but that they are to succeed him in his private Estate, if he have any, and not to the Crown? He concludes, that the Word Heir to the Crown was not heard of, till arbitrary Power began to put forth. If this is true, I am afraid that all the Kings both of Scotland and England have been arbitrary Kings from the Beginning, and (notwithstanding the late Revolution) as that Phrase is fill used by them, they continue to be so to this I have acknowledged above, that the Word Heir, in the strict and legal Sense of it, is, as that noble Lord writes, fynonymous with the Word Successor. But all the World knows, that it is infinitely oftner in common Language used in a more general Sense, for him, that by Right of Blood, or particular Destination, is to succeed to the Person whose Heir he is; and that that Name, in common Discourse, as well as in most Writings, is given . him in the Lifetime of his Predecessor. It were endless to bring Proofs of this from other Books of various Kinds; I shall therefore instance only in the

the facred Writings, which our Rev. Author, as a Minister of the Gospel, cannot be ignorant of. Thus, Rom. viii. 17. And if Children, then Heirs, Heirs of God, and joint Heirs with Christ. And Galat, iv. 7. Thou art no more a Servant, but a Son; and if a Son, then an Heir of God through Christ. And, to name no more, in the Parable of the Lord of the Vineyard, Matth. xxi. 38. Mark xii. 7. Luke xx. 14. who, after he had fent several Servants to the Husbandmen, to receive the Fruit of the Vineyard which he had let out to them, but in vain; at last, thinking that they would reverence him, he fent his only Son. But these wicked Men, when they faw him, faid among themselves, This is the Heir, come let us kill him, and the Inheritance shall be ours. From this it is plain, that a Son may be called Heir in the Lifetime of his Father, but cannot be his Successor till after his Death; and consequently that in common Language, Heir and Successor are very far from being synonymous Terms.

Our Author has next a long Digression concerning the Pretender, which, as being quite so-reign to the Purpose, I have nothing to do with. Only I here remark, that our Author, forgetting his own Argument, owns the King's eldest or only Son to be his Heir, even in his Father's Lifetime. For, says he (i), "All civilized Nations, "where the Monarchy is hereditary, have taken fo great Care that the Heirs should be known, that it was not possible that any Controversy should arise about their Birth." As these Words relate

relate to the Monarchy of Britain, which he has been speaking of all along before, does not this suppose it to be hereditary, and that the Heir to it should be known in the Lifetime of the then King, but is not

to be his Successor till after his Death?

COME we then to his p. 20. where, contrary to what I have just now observed of him, he will have the Words Heir and Successor to be fynonymous, he has this notable Passage: " As, says he, " I have already acknowledged, that the Monar-" chy was hereditary, as the Word Heir is a fy-" nonymous Word with that of Successor, the "Kings of Scotland for some Periods of Time " have succeeded from Father to Son; yet they " never, except in the Case of an Usurpation, " mounted the Throne, without the Consent of " the Nobles and the other Representatives of the People." Who is there, that is tolerably acquainted with our Histories, would speak at this rate? When from the whole Tenor of them it is most certain, that for near 800 Years (unless, as he fays, in the Case of Usurpations, and, I add, when Disputes about the Right did arise) our Kings did constantly and immediately, either by themselves, or, when under Age, by Regents in their Name, upon the Death of their Fathers or Predecessors, enter upon the Exercise of their Government, without waiting for the Consent of the Nobles, or the Representatives of the People. This I have made as manifest as Light at Noonday, by their reckoning of their Accession to the Throne, and the Years of their Reign, from the precise Day on which their Predecessors died. Had the Consent of the People been essential or neceffary

necessary to their Title and Government, it would have been great Presumption in them (pardon the Expression) to act as Kings, before that Confent was fought and obtain'd. They ought in good Manners to have delayed their taking that Name. till their Constituents had given them Leave to use it. I do not well know what our Author means by mounting the Throne; I suppose he understands by it their Coronation, when they are to swear to the Observance of the Laws, or, as our Author perhaps will call it, the great original Contract. But every body knows, that the Coronation of Kings is nothing but a Piece of State Ceremony, and confers nothing upon them but what they were possest of before. As to the Citation our Author brings from the learned Barbeyrac (k), That there is not any Kingdom that is a Patrimany, without the Consent express or tacit of the People: Tho' no great Favour is to be expected for Kings from a Republican Professor, yet in a certain Sense I shall yield it. If a fixt Settlement or Constitution is agreed to, and confirm'd by Oath by the Body of the People, as is said to have been the Case at the Commencement of our Monarchy; and if by that Constitution the Crown is made hereditary to the Descendents of the first King, then, if the Deed of our Ancestors could bind their Posterity, not only by the Confent of the People, but by express Compact, which certainly includes Consent in it, the Kingdom becomes and continues to be the Patrimony or Inheritance of these Descendents in their Order,

Et natis natorum, & qui nascentur ab illis,

thro'

<sup>(</sup>k) Annot. ad Grot. lib. 1. cap. 3. 5 11;

thro' all Generations. But if by Consent Barbeyrac, or our Author, means, that upon the Decease of a preceeding King, the Successor must previously have the Consent of the People, either express or tacit, before he can ascend the Throne, then indeed the Kingdom is not his Patrimony, nor has he any Right to it till that Confent is some Way or other made known: For certainly he is an Usurper, that assumes to himself a Power, before it is given him by them who alone have the Right to bestow it. If that is the Case, our Monarchy is not hereditary, but elective; and we are not concerned in any Settlement made by our An-This, I know, is the celebrated Mr. Locke's Doctrine, who maintains that Children cannot be ty'd down to any Deed, tho' ever so lawful or useful, made by their Foresathers; but that they are still fui juris, and may (that Deed notwithflanding) do what they think fit. The Abfurdity of this Opinion has been fufficiently exposed by others, and I shall say no further of it here, than that according to it, there can be no hereditary Kingdoms, nor any other fixt Form of Government in the World. It is idle to talk of Claims of Right or fundamental Constitutions, all Settlements and Civil Establishments fall to the Ground at once, and are good for nothing, unless the succeeding Generation re-establish or approve them; which they may do, or not do, as they judge proper, and that for themselves only: And the Generation that comes next, and so on, may continue or abrogate every Thing at their Pleasure. At this Rate, in less than two Hundred Years, a Monarchy may become a Republick, and that again a Monarchy,

Monarchy, under various Forms and Shapes, according as the giddy Multitude shall take it in their Heads.

I have here besides one Question to ask, What Barbeyrac and others, who use that Expression, mean by the tacit Confent of the People? If they understand by it (and I do not see what other Sense it can bear) that the People quietly acquiefce and fubmit to that King, who has mounted the Throne without their express Consent: What is elle than making him a King ex past-facto, who had no Title to it before? And is it not the same Thing, as if I should allow a Man To-day to keep the Money he had robbed me of Yesterday? Will this Confent of mine justify his anterior Robbery? Let Kings therefore take heed to themselves, and not mount the Saddle till the Reins are put into their Hands, or claim that as their Property which as yet does not belong to them, nor ought they to use, till those are consulted in whose Hands it Ives to allow them to keep it, or not. If Barbeyrac's or Mr. Logan's Doctrine in that Sense is just, our Kings both before and fince the Revolution have been certainly very prefumptuous, who have fo foon taken upon them the Government, and would not wait so much as one Day, to know either the express or tacit Will of their Constituents; of whom Millions could not for many Days know any Thing of the Matter, or give any Manner of Consent to it.

Our Author however (1) goes about to prove what he has said, by Buchanan's Phrases, Electus est, suffectus est, populi suffragiis creatur, populus regnare

<sup>(1)</sup> Page 21.

regnare justit, and the like. But, if our Government was hereditary, as he owns it generally was, then these Phrases are very improper, and, if strictly taken, absolutely false. For how could he be said to be elected by the People, who within a few Hours after his Father's Death, and before the vastly greater Part of the People can know of it, is proclaimed King, and immediately fets himfelf up as their Sovereign Lord? He that can reconcile these Things together, can unite Light and Darkness, and make Contradictions join Hands. How then can Mr. Logan fay, that that happened never without the Confent of the People, which I have shewed (except in the Case which he himself mentions,) never to have been done with it? In the Preface to the late Edition of Buchanan's Works. I fay, "That many found Fault with those Ways " of speaking, electus est, &c. used by that Au" thor, and think that his main Design in using " them so often as he does, was to justify the dethroning of Queen Mary, and substituting "King James her Son, or rather the Regent Earl of Murray, in her Place, by the Examples of our "Forefathers." I own, that I have often heard many judicious and worthy Men make this Complaint upon Buchanan, and think I have some Reason to be of their Mind. This all are agreed in, and it clearly appears from his famous Dialogue de jure regni, that Buchanan was no great Friend to Monarchy, at least that he would have the Government to be elective, and bad Kings to be dethroned, and even punished with Death by their People, if they deserved it. Whether all this was to pave the Way for his great Patron the Earl of

Murray's coming to the Throne, is not so absolutely certain. But this I think may be faid, that it looked much that Way. That Book (as he tells us in his Dedication) was written many Years before it was made publick, when our Affairs were in a most turbulent State; and sure they never were more so, than during the Time of that Earl's Regency. If then the young King had been, either in a violent or natural Manner taken out of the Way, and the Government had come to be fettled (as he would have it) by Election; it is almost certain, that as none, in his Opinion, was fo fit for it, fo he would not only have given his own Vote, but, as far as his Tongue or Pen could have Influence, would have procured the Suffrages of others, in Behalf of his great Favourite and Favourer the Earl of Murray. And then this good Regent, as he and others are pleased to call him, tho' an adulterous Bastard, (m) would have mounted the Throne, and either have been legitimated by an Act of Parliament (as our Author fays (n) our King

<sup>(</sup>m) See King James VI.'s Basilicon doron, p. 172; that King's Words are so remarkable that I cannot forbear fetting them down : " I trust (says he) I need not to insist here to " disswade you from the filthy Vice of Adultery: Remember " only what solemn Promise you make to God at your Mar-" riage; and fince it is only by the Force of that Promise that " your Children succeed to you, which otherwise they could " not do, Equity and Reason would you should keep your Part thereof. God is ever a severe Avenger of all Perjuries; and it is no Oath made in Jest, that giveth Power to " Children to succeed to great Kingdoms. Have the King " my Grandfather's Example before your Eyes, who, by his "Adultery, bred the Wreck of his lawful Daughter and Heir, " in begetting that Bastard, who unnaturally rebelled, and " procured the Ruin of his own Sovereign and Sifter." (n) Pag. 121, 148 and 179.

King Robert III. was) or have, by some of our godly Resormers, been declared King James V's lawful Issue; as some of their Successors afterwards contended that the Duke of Monmouth was a lawful Son of Charles II. This we are sure of, that the Duke of Chastelberault, who, failing Queen Mary and her Son, was the next of the Blood Royal, would never have been Buchanan's Man; for him and the whole Race of that Family he hated mortally, as appears by a most scandalous and bitter Invective writ against them (as is very probable,) about that Time.

Our Author next tells us (o), "That in the Opinion of the Bishop of Carlisle (who, he says, " was more conversant in our Scotish Historians " and Antiquities, which I much doubt, than all the fage (p) Men I speak of) our other Histori-" ans favour the Rights of the People as well as "Buchanan." But what are the Grounds of this Bishop's Opinion? Why says he, (9) Fordon, Boethius, Chambers Lord Ormond, and others. fetch the Original of our Government from the People. What then? Tho' (I believe) all that they fay of Fergus I. and all his Successors to the II. of that Name, is fabulous, I shall however at present grant what they relate, viz. " the Heads or Chiftains of the Scotist Tribes " having called over this Prince Fergus from Ireland

(0) Pag. 22.

<sup>(</sup>p) Our Author here, to shew his Wit, that he might give a Wipe to the worthy Mr. Sage, translates my Words, viri gravissimi, very sage Men, instead of very grave and judicious Men.

<sup>(9)</sup> Scot. hift. Liber. p. 36 @ 103, 106, 126 @ 127.

" land to affift them against the Britons and Picts; " these Chiftains, who were petty Kings them-" felves, and independent of one another, as well " as of all the World besides, did, with the unani-" mous Consent of their several Clans, make, con-" stitute, and (if you will) elect this Fergus their " first King, and entail'd the Crown by solema "Oath upon him and his Pofferity for ever." Let us suppose then all this to be true, I do not fee that our Author will gain much by it. Every Thing must have a Beginning, and whether it was then, or afterwards that our Monarchy had it's Origin; if this was the Manner of it, the Matter comes to the same Point. According to them, all that could pretend to a better or prior Right before this King Fergus, had freely and voluntarily given it up to him, and having made this new Establishment, they could not without Perjury counteract it, or resume that elective Faculty which they once had, but now had made a Surrender of: Unless one can justly be faid to retain that which he has absolutely and irrevocably given away. People may talk what they will of the Conditions on which Fergus I. and his Successors were to enjoy the Sovereignty, and that the Nobles might call them to Account, and punish them for their Misdemeanours. None of our Historians (as I faid before) make any Mention of fuch an Article or Clause in that first or any other Settlement. Boethius indeed, and our later Historians, give some Instances of that Kind; but it is remarkable, that Fordon (who is vastly more to be credited than them all) does not fo much as give us one. Those that they represented as bad Kings before Fergus II. he does

not so much as name: And I believe we have no Account of them, but what were formed out of Boethius's or some other as idle Head, and so not to be regarded. Of those after that Period, Fordon mentions only five that might be called vicious, Ethus-Alipes, Culenus, Constantine IV. Grym, and Macbeth. The first and three last he reckons Usurpers: For Ethus-Alipes had come in before Gregory, who should have been preferr'd by the old Settlement; and Constantine and Grym ufurped upon Makeolm II. contrary to the new Settlement made by Kenneth III. as did also Macbeth usurp on the Right of Malcolm III. He does not so much as fay, that any of these were depos'd or put to Death by the Nobles; but that they died in Battle, maintaining to the last their unjust Title. As to Culenus, who was indeed a lawful King, him he represents as a very wicked Prince: But so far is he from saying that his Nobles arraigned and condemned him for his flagitious Vices, that he only relates, that after both they and the Clergy, by their Exhortations had in vain endeapoured to reclaim him, he incurr'd their Hatred and Indignation: Which will readily happen to fuch vicious Princes as he, be their Power never so absolute, and their Title never so just. And yet he adds, that, notwithstanding his great Wickedness, he was flain, not by a Council of his Nobles, but, by one great Man among them named Hadardus, whose Daughter he had ravished. From this we see, that Bishop Nicolson, whatever his Knowledge of our Historians might be, does not deal very fairly by Fordon the eldest of them, in attributing to him fuch Notions of popular Power, of which nothing

is to be found his Writings. From all he cites from Chambers of Ormond, he seems likewise to be free from fuch Principles; and I believe no body will charge Bishop Lesly with them: For they say no more but that Fergus I. was created the first Scotist King. There remain then 70. Major, H. Boethius, and G. Buchanan. The first of these indeed derives all Right of Government from the People, and gives great Allowances to the Parliament (in which I suppose he includes the King) in the Difposal of the Crown. Yet it does no where appear, that he allows these Parliaments to try and depose their Kings for Malversation. What to think of Boece I know not: For, tho' he relates, and I am persuaded falsely, that many of our Kings were so treated by their Nobles, and may thereby feem to approve what they did; yet I do not remember that he has any where directly declared his own Sentiments in that Matter. As to Buchanan, tho' he is not the Inventer of the Kingkilling Doctrine; yet he seems to have the Glory of being among the first that have brought it to a Kind of System: In which he is accompanied or followed by some of great Fame with many among us, as Knox, Calderwood, the Author of Nephthali, Lex Rex, The true Non-conformist, The Hind let loose, &c. and not a few of our neighbour and other Nations. But the Original of it runs a great deal higher, as far back as Pope Hildebrand, in the 11th Century, and has been maintained ever fince by most of his Successors and their Devotees, many of the Monks, School-men, and Canonists; but especially by the sworn Supporters and Abettors of their gross Usurpations upon the Rights of Sovereign Princes, the whole Society of Jesuites. And yet it would seem very strange, if we did not know it, that notwithstanding all the hideous Outcries against the Errors of that corrupt Church, so many among us that call themselves Protestants should embrace one of the worst of them.

But of this too much. To return a little back to Bp. Nicolson, whom our Author so often cites, I beg Pardon to differ from him, as to what he fays (r) of Buchanan, " That he is not to be re-" puted the first Parent and Founder of Antimonarchical Principles in Scotland; fince it can " only be justly said of him, that he reviv'd and " improv'd the imperfect Notions of popular Go-" vernment, which had before been started by " Hector Boethius and others, in their History of " Fergus I. and his Successors." For I can hardly believe, that any of them before Buchanan had fuch Notions of our Monarchy, as that the People could judge and punish our lawful Kings for their Faults. Buchanan did not take his Pattern from them, but from the Roman and other antient Histories, in which Kings are treated very contemptuously, and the Opposers, or even Murderers. of fuch of them as were bad, are highly commended by these Heathenish Writers. As to the Doctrine itself, it was utterly unknown in the first and best Ages of Christianity. But if our modern Christians will rather follow the Example of Pagans than that of the first Founders and Propagators of our holy Religion, we must leave them to the great Judge of all. Bp. Nicolfon himself is so far the firers Supporters and Abetrors

of their grafs Uturpations upon the Ki fits of So-

from being of Buchanan's Principles, that he rejects them with a kind of Indignation. For, fays he (s), "When Buchanan describes the barbarous Affal " fination or Murder of any of their Princes, he " does it with fuch an Air of Pleasure and Satis-" faction, as shews that he delighted to dwell on " the Subject; and that the Head of a flaughter'd "Monarch could not be more (what he too often " calls it) gratum populo spectaculum, than it would have been so to himself, who, if his Story of " the Son of Ferchard be true, was certainly a "Man of the primitive Spirit of his Ancestors." These last Words of the Bishop I do not well understand. Buchanan's Story of the Son of Ferchard is much the same with what our other Historians relate, and is neither more nor less than this, that the Scotish Chiefs, with the Consent of their Tribes, did make or chuse the Son of Ferchard their King; i. e. devolv'd all that Power, which they themfelves had before, upon him and his Posterity. What primitive Spirit of Buchanan's Ancestors does this Bishop speak of? Does he, or any other of our Writers fay, that before this Election the Tribes were in use to murder and affassinate their Chiftains, when they proved wicked? If we can judge of those Tribes by what they are at this Day, (barbarous as they are reported to be) never People or Nation did love, regard and faithfully obey their Sovereigns, as they do their Chiefs; and it was never heard that they, whatever Crimes they might have been guilty of, did depose, far less put any of them to Death. There was no Magna Charta.

Charta, or Conditions of Government, between their Chiefs and them; but the Will and Pleasure of the former was an universal Law to the latter. And if all that unconditional Authority which these Chiefs had over their Subjects was transferred to our Fergus I. as neither Buchanan nor our other Authors speak of any Conditions; so this alone makes it infinitely probable no such Bargain nor Contract, as Mr. Logan speaks of, was then struck with our first King; but that his Government was as absolute and illimited over the whole People, as was that of the Chiefs over their several Clans before.

WHAT the Bishop writes of R. Maule's Book of Scots Antiquities, " Wherein, says be (t), he " discourses at large on the various Changes of Re-" ligion and the Government of the Estates, as in-" dependent on (or above) their Sovereigns," I never read, and so cannot be assured of what was Mr. Maule's private Judgment in the Matter. 'Tis true, that in fact our People, at the Reformation. did in a most tumultuary Manner, and in Opposition to their then lawful Sovereign, destroy the Form of Religion that was then and many Ages before established among us, and violently and with a high Hand fet up another in its Place. But however good that Change in itself might be, yet the Means by which it was carried on, and the Persecution and Banishment of those whose Consciences could not comply with it, and the Train of other Evils consequent thereupon, (some of the sad Effects whereof we feel at this Day) are Things that

no regular Government can tolerate, nor any good Man justify. There was another Reformation of that Reformation carried on by the same Means; in the Days of King Charles I. But what a long Civil War this involved us in, and the Mifery, Defolation and Destruction it brought upon three then flourishing Kingdoms, as made us a Hissing and a Proverb to all our Neighbour Nations, no Tongue or Pen is able to express. If our Author has no better Arguments to defend his popullar Scheme of Government by than thele, much good may they do him. I, for my Part, utterly renounce such Principles, being perswaded (as our bleffed Saviour fays in another Case) that from the Beginning it was not fo; and that the primitive Christians knew no such Doctrine. With them preces & lachryma were the only arma Ecclefial But if with us then,

## Tantum religio potuit suadere malorum;

and that our Religion now is to stand upon the same Bottom; one would be almost tempted to think, that we had as good sall back to our most antient Religion. I do not mean Popery, (for that has been chiesty propagated and supported by the same Means) but honest plain Paganism; in which however various its Schemes might be, yet there were no such Contests about them, not were they attended with such dire Consequences. Our Saviour never authorized the propagating or defending of his Religion by Arms; And if we will, not withstanding, take that Course, let us pretend what we will, and cry out as much as we can against the Antichristian Church of Rome, we are,

I'm afraid, in that respect, as Antichristian as it

In p. 24 our Rev. Author fays, "That he " may not feem to take things upon Trust as Mr. " Ruddiman has done, he will shew from the Wri-" ters of our Annals themselves, that they used the very same Phrases which are so much quarrel-" led in Buchanan." It is answered in the first place, That in that Part of Mr. Ruddiman's Preface, which our Author refers to, he is not speaking his own, but the Opinion of other grave and judicious Men, who were offended not only with these Phrases of Buchanan in general, but also with his too frequent Repetition of them. How inconfiftent they are with our Constitution, if taken in their proper Acceptation, I have demonstrated above. And if some other of our Historians have likewise used these Phrases in a wrong or improper Sense, that will not vindicate Buchanan, who knew the true and genuine Import of these Phrases better than they.

Our Author here, before he proceeds to give us Instances of such Phrases in other our Historians, by way of Digression, tells us (u), "That bove twenty Years ago an Answer was prepared to Mr. Ruddiman's Presace; and that at that time there was a Design of publishing a new Edition of Buchanan's History, with a Reply to Mr. Ruddiman's Annotations upon the Life of Mr. George Buchanan and his History," &c. I know that a great Number of Persons, the most eminent for Learning and other Qualities that these

Projectors could find, Ministers of the Gospel, Professors of Divinity, Philosophy, History, &c. were employed in the Work: Nay, the great Mr. Burman (who was then fetting about a new Edition of Buchanan's Works in Holland) was feveral times wrote to, or Mr. Langerak his Printer, that such Documents would be fent them, as would vindicate Buchanan's History from all the Objections made to it by Mr. Ruddiman, in his Preface and Notes to Mr. Freebairn's Edition. This Mr. Burman himself informs us of in his Preface; but adds. "That Mr. Langerak being impatient to go on " with the new Edition, and alledging that the " Boastings of the Favourers of Buchanan in Scot-" land were perhaps idle and vain, (which their " Delays gave him some Ground to think) he put " that Author's Works to the Press, with Mr. " Ruddiman's Preface and Notes as they were:" to which Mr. Burman adds some few critical ones of his own, but does not otherwise in the least dip in the Controversy. This Edition came forth in the Year 1725, ten Years after that of Mr. Freebairn. Our Author further tells us, " That this " Project was again fet on foot a few Years ago. " and that if sufficient Encouragement shall be gi-" ven to the Undertakers by Subscription, the "Work shall go on, as an Answer is prepared to " these Things that are objected against Buchanan's " History." It cannot but seem strange, that a Work of fuch Importance, where not only the Honour of the great Buchanan and of our first Reformers in Scotland, but also the most valuable Rights of the People, as they give out, are so nearly concern'd, should be so long put off. What I 2

need of waiting for Subscriptions, when so many Persons of Distinction, and of great Wealth and Influence, are engaged in the Cause, and have been labouring the Point near these thirty Years, that one would think that their very Names would go further than a thousand Subscribers, and bring in Crowds of Purchasers (striving who should be first) of fuch an ulcful, and, I may lay, at this Juncture (in our Author's Conceit) so necessary a Work? But I am afraid that, after all these Boastings, some unlucky Rubs have cast up in their Way, and some Aubborn Truths that they cannot easily get over, have hitherto retarded this mighty Delign. I have long wished to have the Satisfaction to see it come abroad in my Lifetime, that I may retract what I have faid amifs, as I shall always be ready to do; and justify myself when I am in the right: As the former is the Duty of every honest Man, so is the latter his Privilege. But I will tell these Undertakers, for their Encouragement, that fince these my Notes on Buchanan were printed, a great mamy Discoveries have been made, and not a few original Documents and other Papers have come to hand, which not only clear up what I have faid in these my Notes, but also detect a great many other Flaws and Mistakes in other Parts of that Author's History; and in particular vindicate our Queen Mary from the atrocious Calumnies and Reproaches vented against her by him, and yet kept up by her other inveterate and relentless Enemies.-Let our Author mock these Discoveries (as he does in that Place) (v) as much as he will; yet I can afare to othe Poole, as they also ont, ore fi

economic de stratald be do longe pur da.

fure him, upon good and indisputable Evidence, of the Truth of them: And as they are under the Management of a very fit Hand, they will (God willing) e're long see the Light; and sooner, I expect, than his grand Work, which is already near

triginta annorum, will be made publick.

Bur to return with our Author to those of our Historians, who use the Phrases, electus est, suffectus eft, &c. as well as Buchanan, I confess our Author has brought more Instances of that kind from Boethius and Lefty, than I expected. The latter of these is in the main nothing but an Abridger of the former, whose very Words and Phrases, as Bp. Nicolfon (w) observes, he frequently retains. I wonder very much how they could use fuch Phrases. I suppose, that finding them very often in the Raman Historians, especially in Livy. (where indeed their Signification is strict and proper, all the Magistrates of that People being elective) they would likewife use them, to embellish or divertify their Diction. But I believe they really meant no more by them, than the Proclamation of the Successor, or a publick Notification to the People that they had got a new King. This is no more than what is necessary, and is the constant Custom in the most hereditary Governments; but is performed to foon, as no Conventions of the People can be called or held before it. I must likewife observe, that some of the Examples our Author brings are not to the Purpose, as particularly that from Lefly, p. 47 of the Scotist or 50 of the Roman Edition, not p. 40 as Mr. Logan has it.

For there he is speaking of Irish Chistains, and not of Scotifb Kings, with whom alone I am concern'd. The same I say of what is cited from Fordon, lib. 2. cap. 12. For there he is speaking of King Fergus I. whose Right to have been by Election, I shall not now dispute (x). But when that Author is fpeaking of his Successors, he never fays that they came to the Crown that Way. As little will the Instance brought from 70. Major anfwer the Purpose; for there he is speaking of the Election of a Regent or Gubernator, not a King: And that these may be, and frequently have been chosen by the States, even in hereditary Kingdoms, none will question. There is another Place which our Author cites from Major, wherein he fays that Robert II. Ren Scotorum est effectus, i.e. was MADE King of Scotland; by which Words nothing more is to be understood, than that he was crown'd and anointed King of Scotland. For we have feveral Instances in holy Writ, where Kings are faid to be MADE by the People of Ifrael, tho' they had been before appointed their Kings by God Himself. But of this we shall speak more fully, when we come to consider what is said by our Author, p. 46, &c.

Fordon therefore and Major being taken out of our Author's List, we find only Boethius and Lessy using that improper way of speaking. The former indeed has it pretty frequently, tho' one

<sup>(</sup>x) Tho' the Phrase creatus est, which he there uses, seems to signify his publick Inauguration or Instalment; for so he after expresses it in this same Chap. Deinde post multum tempus venit quidam REX ex Hibernia, nomine Fergusius, silius Ferechardi, regalem in Scotiam secum deferens cashedram, in qua PRIMUS ibidem REX à Scotis CORONATUS EST.

of the Instances, fol. 133. brought by Mr. Logan, is of a British, not of a Scotish King. The other (Lefly) inconfiderately, and contrary to his own Principle, following his Leader Boece, sometimes stumbles on that Phrase. There is one Place in him, which I much wonder at, wherein he outdoes Boece, where speaking of Constantine IV. firnamed Calvus, he fays, p. 190, Constantino Culeni filio nobilitas universa imperium mandavit. Boece himself says no such thing, but only that it was multorum authoritate inter Scotos pollentium, that he got himself crown'd at Scoon within twelve Days after the Death of his Predecessor. Forder (more probably) fays, that he put the Crown on his own Head the very Day after his Predecessor's Death, paucis procerum annitentibus. All of them agree, that it was a Violation of the Settlement made by his Predecessor Kenneth III. a few Years before. And it is hardly to be thought, that that Rule of Succession, which was agreed to omni consensu Principum (as Fordon expresses it) paucis primitive successionis fautoribus exceptis, should be so soon overturn'd by many of our chief. Men, as Boece, far less by the whole Nobility of Scotland, as Lefly writes it was done.

But to pass this, from what I have so often said, it is evidently manifest, that if Boece, Lessy, or any other, use these Phrases, electus est, suffectus est, &c. in any other Sense than that of the Proclamation or Inauguration, they speak falsly, at least improperly. This they themselves could not possibly be ignorant of, who constantly speak of the Right each had by Proximity of Blood to assend the Throne, and condemn them as Viola-

led nemce

tors of that Right who came to it any other ways Buchanan himself owns the thing, that our Go vernment from the Beginning was hereditary to one of the same Family, tho' not confin'd so strict ly to the lineal Order, but that, in case of a Mil nority, one more remote might take place of one nearer in Blood, but that after the Constitution of Kenneth III. the Government became firially and absolutely hereditary down to his own Time. He indeed inveighs heavily against that new Regulation, in the Beginning of his 7th Book, and pleads strenuously (as our Author does) for the e lective Scheme; but how justly, I leave to others to determine. This feems certain, that, in conformity to his Notions of Government, he makes a much more frequent Use of the Phrase above mentioned than any other of our Authors; tho he very well knew, and no Man better, that in the Propriety of the Language they could not be applied to the Kings of the second Entail, and hards ly to those of the first. It is by the bye remarks able, that tho' he uses Phrases that import Election to upwards of thirty of our Kings down to Ken neth III. yet after his Time, when the Right of Succession was more absolutely fixed, he very rare ly, if ever, uses that way of speaking. Once I remember, upon the Death of Alexander III. he fays, Conventus Ordinum Sconam indicitur, in qua de novo Rege creando agereture. And again, after the Death, or rather the cruel Murder of King Fames III. his Words are, Interea comitia nova Regi creando in certum diem indicunti But Tam not fure but that by creando, in the first place, he meant no more; but that the Nobility met in confequence

fequence of the Oath they had given to Alexander III. to declare Margaret of Norway his Grandchild their Queen. And in the second Place, he seems to have understood by that Word, that the States appointed a Day for the Coronation of King James IV. then a Minor: And I know not whether the Word creando may not admit of these two Senses. Only I do not see, how he could say Regin the former Place, when it was to a Queen that the Nobility had sworn; unless he makes the Word Rex of the common Gender (y). Thus much of the Propriety or Impropriety of these Phrases.

Our Author however will have it, that our other Writers, as well as Buchanan, did use these Phrases in their true and proper Signification. For he adds, (z) "Doth it not now appear, that the Pre-" facer's viri gravissimi have had a large Share of "Affurance, when they would impose upon the " World fuch a gross Falshood for Truth, that our "Kings came not to the Throne by the Suffrages of the Nobles, and the Confent and Appoint-" ment of the Representatives of the People." He adds very quaintly, " That he is almost tempted " to think, that they have read our Annals, as "Witches fay their Prayers, backwards. These " Quotations (continues be) are a sure Evidence, " that the Prefator has taken Things upon Truft, " and without due Examination." Bona verba, queso! The Prefator has not taken Things upon

<sup>(</sup>y) I know the Word Reges in the plural Number is frequently used by good Authors for a King and Queen; but Rex in the singular, for a Queen, I believe is no where to be found.

<sup>(</sup>z) Pag. 26,

Trust, but simply told what some grave Men have faid on the Matter, without telling in that Place his own Sentiments about it; but now fince our Author puts me (the Prefator) to it, I have the Affurance to tell him, that I am of the same Opinion with these grave Men; and however often, or however many of our Annalists (were they a Thousand Times more in Number) there are, who use those Phrases, they either use them improperly, or (if properly and in our Author's Sense) they fay what is notoriously false, and utterly inconsistent with our Constitution as well as with Truth. This I have demonstrated above, and leave it to the World to judge, whether our Author, or I, have the largest Share of Assurance, or have most taken Things upon Trust and without due Examination. I shall only add here, that, if by Election he means the Convention of the Nobility, and the Crowds of People that commonly attend at the Coronation of our Kings, that will by no Means do his Business. For if they acted as Kings (as I have shown) immediately upon the Death of their Predecessors, and many Days or Months before their Coronation, they must either have been Ufurpers, or, if already lawful Kings, there could not possibly be any Place for Election. What our Author therefore says of the Prayers of Witches, is really applicable to himself, and not to these grave Men and me, when he puts the Plow before the Oxen, and makes that which went before depend on that which follows after.

THAT he may better understand this, I will give him an Instance, viz. in our King David II. (concerning whom I have the Note which he so much quarels.)

rels.) That King, tho' a Boy of feven Years of Age, was owned as fuch, not only by all his own People, but also by the King of England, one Year, four Months and nine Days, before the Ceremony of his Anointing and Coronation (a). From this I think it will eafily appear, whether mine or my Antagonist's Motions are most retrograde. If he fay that these popular Elections of our Kings were not made at their Coronations, but some time before; the People must be very quick with them; for they have hardly a Day left them to do it in, between the Death of the preceeding and the Accession of the succeeding King: For the former no fooner leaves the Throne than the latter steps into it, and it would require a more than natural Power to conveen the Nobles and Reprefentatives of the People in so short a Space. And if they should come some Days too late, what could they do, unless it were to chide their King and those about him, for despising them and not asking their Consent, at least Advice, before he took upon him the Government? And who knows but the Contention might have arose as high, as it did between the Men of Judah, and the Men of Israel, in the Case of another King David, 2. Sam, xix. 432

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MR.

(a) This appears by an Acquittance of Edward III. for 10000 Merks Sterling then received from King David, in which that Prince expressly calls him, the most excellent Prince Lord David, the illustrious King of Scots. It is dated at Woodstock 15th July 1330; whereas David was not crown'd, as all our Historians agree, till the 24th November 1331. This Acquittance (the Original whereof I have many times seen) I thought not amiss to set down in the Presace to Mr. Anderson's Diplamata, p. 41.

Mg. Logan next observes, (b) that the Prefator, i. e. Mr. Ruddiman, fays, " That Buchanan repeats the foresaid Phrases frequently, with this "View, that the Earl of Murray, the Queen's " Bastard Brother, might be preferred to the "Throne." I do not fay fo directly myfelf, but am only relating what these grave Men before mentioned thought of him. I will not politively affert that the Earl of Murray was aiming at the Crown: But this I will fay, that there appeared many Things in that Earl's Conduct, and in the Writings of his devoted Admirer Mr. Buchanan, that give very shrewd Suspicions that Way. This last, both in his History, and Book de jure regni, stands up mightly for elective Government, not only in Scotland, but every where elfe. Again he and his Friend Mr. Knox thunder loudly (c) against the Regiment of Women; and our Author following these his Oracles, declaims likewise against it as unlawful and unnatural (d). That alone, tho' they had nothing else to pretend, was enough to have set Queen Mary aside. In the mean time however, as Matters were not (it would feem) then ripe, the Faction had given the Name of King to an Infant. But even that was against Buchanan's Principle, who, in the Beginning of his 7th Book, severely censures those People " who voluntarly bring upon themselves those E. of vils, which the Subjects of Commonwealths do

(4) Pag. 56 and elfewhere,

<sup>(</sup>b) Pag. 27.

(c) The Title which Mr. Knox gives to that Treatise of his, is, The first Blast of the Trumpet against the monstrous Regionent of Women.

do above all Things deprecate, viz. the appoint-" ing those to be their Kings, who must have or " thers to be their Governors, and deliver the " whole People into their Power, who have not " Power over themselves; and that those that " do fo, precipitate themselves upon those Punish-" ments for Crimes, which God threatens against "them that contemn him, namely, that they " should be subject to Boys and Girls, whom the " Laws of all Nations, and Nature the Parent of " all Laws, will have to be under the Power of According then to Buchanan's Do-Arine, our People not only acted foolishly but wickedly, in doing that which was contrary to the Law of Nature and Nations, and had the Curse of God threatned against it. What then would he have us to have done? Why? I can see Nothing else, but that the People, who (according to him and our Author) have the fovereign Right of making and unmaking Kings at their Pleasure, to avoid those Evils, which fuch a Government brings along with it, should speedily retract their precipitant Act (I use the Author's own Word) by setting aside that Infant King, and chusing pietate gravem ac meritis virum, a Person of great Plety, Wisdom and Experience, to govern them. And (if we will believe Buchanan) they could not find one in all Scotland, or perhaps in the World, that could match the Earl of Murray for these excellent Qualities. And had the People pitched upon him (as Crowns and Scepters are very charming Things) I much doubt, if he would have been so felf-denied as to refuse the Offer, and resist so great a Temptation. He was, besides, of the Blood Royal, and,

tho' a Bastard, yet an Act of Parliament could have legitimated him, as another had, according to our Author, (e) formerly done our King Robert III. And if the Familiarities which the Infant King's Mother was confidently reported to have had with David Rizzio, were true, he likewise might seem to have needed such a Dispensation, or for the Want of it be justly discarded. Richard III. of England gave out that his two Nephews were Bastards: But finding that Pretence not like to take with the People, he was forced to kill them, having no other Way to come to the Crown. But waving this, if none of our Kings, as our Author contends, came to the Throne, but by the Suffrages of the People, our Fore-fathers were the arrantest Fools in the World, who (contrary to Buchanan's Rule) in the Space of 289 Years chose no fewer than twelve of their Sovereigns, all under Age and unfit to govern, viz. Malcolm IV. Alexander II. and III. David Bruce, all the fix James's; besides two Queens, Margaret the Grandchild of Alexander III. and Mary the Daugther of James V. whose Sex (according to our Authors) rendred them incapable of Government. But it feems our Nobles faw with other Eyes, than those of Messieurs Know, Buchanan and Logan. The hereditary Right was a Thing they could not get over; and if this does not confirm what I have faid, I know not how any Matter of Fact can be prov'd.

Bur says our Author (f) "Mr. Ruddiman is inconsistent with himself, in saying that these Phrases of Election were used by Buchanan with

(f) Pag. 27.

<sup>(</sup>e) Pag. 121 and 179.

" a View that the Earl of Murray might be pre ferred to the Throne." Mr. Ruddiman is not inconsistent with himself; for (as we said before) he is not speaking his own Words, but those of others in that Place. But where lyes this Inconfiftency? Why? " Mr. Ruddiman makes Buchanan " to have begun the Writing of his History Anno " 1568. At this Time he was 62 Years old; af-" ter this he lived twelve The should have said 14 " Years, having died in 1582. All these Years " he had for composing his History. Now the " Earl of Murray was murdered Anno 1570."; All this is true, fave only that I do not fay positively that Buchanan began to write his History Anno 1568. but only, ut ego arbitror, i. e. as I then' thought, or conjectur'd. But now, when I consider the Thing better, I have some Reason to believe, that he fet about it, or at least laid in Materials for it, much sooner than that Year. I have proved in the Notes on his Life, (g) that he returned home to his own Country in the Year 1563. In the Dedication of that his History to King James VI. he acquaints him, "That when, upon his Re-" turn, he was fetting about a Review of, and " putting in order his other Works, the fudden Requests of his Friends broke all his Measures: " all of them, as if they had conspired together, exhorting him to lay afide those other Performances of his, which were of less Importance, and apply himself to the writing a History of " his own Nation." These Things, I think, bid fair to shew, that he set about that Work some

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Years before the 1568. But be that as it will, I further add, that even in these two Years Mr. Logan allows him, he might have brought his History a good Length, before the Earl of Murray his Patron's Death. This is certain, that down to our Kenneth III's Time (before which he almost only uses these his above-mentioned Phrases) his History is little else than a Compend of H. Boece, which tho' he has put it in a more elegant Form and Drefs, yet as that was eafy to him, who had so great a Command of the true Latin Diction, and the Manner in which the Greeks and Romans wrote their Histories; it would probably not take a very long Time. I must besides take notice of two Things, 1st, That his History comes no farther than the End of the Year 1572, in which the Earl of Lenox was flain; and tho' he lived ten Years after, yet, because he hated (as Sir James Melvil (b) informs us) the Earl of Morton, he would not continue the History through his Regency. adly, I have another Thing to tell our Author, which every one does not know, That his first three Books, tho' numbred before the rest, yet were not written till they were finished. This I have made pretty clear in a Note (i). But that which puts it out of all Doubt is, that there is an excellent manuscript Copy of his History in the Library of the College of Edinburgh, where these three first Books are entirely wanting, and that' which is in the printed Copies the fourth, is in it the first, and of course, that in the Beginning whereof he inveighs against the Constitution of Kenneth III. is only

<sup>(</sup>h) Memoirs, p. 125.

<sup>(</sup>i) Pag. 413. col. 1.

the fourth Book. So that we have no Difficulty to believe that he was advanced much farther in his Undertaking than the Reign of that King Kenneth III. before his Patron was cut off; and confequently of having his obtaining the Crown in View. After that indeed he could have no fuch View. But does he any where tell us that he had changed his Principles? Or would our Author have him to have altered that Part of his History which was writ before; and upon that (to him) most sad and bitter Event, to fay, as Sir Walter Raleigh did on the Death of Prince Henry, our James VI's most promising Son, Versa est in gemitum cithara mea, & organum meum in vocem flentium (k)? What then would he have Buchanan to have faid or done in Agreement with his own Sentiments; but that fince the Flower and Hope of Scotland was gone, the States should choose another, the fittest Person they could think of, to succeed directly to the Throne, which he had so often declared Women and Children incapable of filling?

AFTER this our Rev. Author goes about (1)
"to give us, as he calls it, a clear Proof that the
"Kings of Scotland had not a hereditary Right in
"the strict Sense." In doing whereof he says,
"he would, first, shew what was the Manner of
"our Constitution at first; and next, what was the
"Plan they laid down for the Succession of our
"Kings." As to the first of these, he gives us
the Passages from three of our Historians, Buchanan, Lessy and Boece, relating to that Matter;
where indeed they agree, that Fergus I.'s Right
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<sup>(4)</sup> Job, xxx. 31. waves and or May mode show that

<sup>(1)</sup> Pag. 27. 7. Level mild eyz properties and as (1)

to the Crown was derived to him from the Ele-Etion of the Scotifb Chiftains and their Followers. This, for avoiding Dispute, I shall, for my own Part, at present grant him: But I will not allow him to go one Step farther. At the same time I must tell him, that there are some, who not without Reason maintain that Forgus I. came to the Crown rather by a kind of Conquest (m) than that of Election; and indeed Fordon, the oldest, and on that Account the most to be credited of all our Historians, seems to turn the Matter that

And here I am not a little surprized how our Author, p. 31, should blame Sir George Mackenzie, for leaving out of his Citation from that our most antient Author an important Part of it, viz. Ubi segregatos è medio Pistorum Scotos accolas. Sir George Mackenzie design'd to cite no more from Fordon than he thought sufficient to prove his Point, especially as he (n) refers us to King Fames VI.'s Book, where it is more fully related. But I so far differ from Mr. Logan, that I think that Part which Sir George has omitted, is the most material of all for his Purpose. This will best appear when the Words above are inserted in their proper Place, thus, " Fergus filius Ferchardi, er antiquorum prosapia Regum progenitus,-

<sup>(</sup>m) I do not mean such a Conquest, as when one Nation is engaged against another in War, for between Fergus I. and the Scots there is suppos'd to have been none; but only that the Necessity of their Affairs made them easily submit themselves to him; or, if any were in their Hearts at first unwilling, the Sense of their own Weakness, and the Compliance of the zest, made them yield to his Power. (n) In his Jus Regium, 840 Edit. Lond. p. 28,

" illius commendatione regionis, qua forsan regnare " tetenderat, multum allectus est. - His igitur " exhortationibus, & ambitione regnandi stimulatus, " magnam fibi juvenum copiam accumulans, ad Al-" bionem continuò progressus est, ubi segregatos è " medio Pictorum Scotos accolas, una cum iis quos " secum attulerat, in occidentalibus insula locando " finibus, ibidem super eos Regem primum se con-" Stituit." These Words which Mr. Logan quarrels Sir George Mackenzie for omitting, do in my Opinion more strongly confirm what he is about, than these he has set down. For I hope it will not be contested, that the Words super eos se Regem constituit, are to be referr'd not only to the Scoto-Hiberni, these Adventurers which he brought from Ireland along with him, for they were in a manner his Subjects before; but also, and especially, the Scoto-Britanni, the British-Scots in the Neighbourhood of the Picts, who had not till now become subject to him. But our Author is so frugal a Manager of his Arguments, that, in order to kill two Dogs with one Stone, he makes this Objection of his rebound backwards from Sir George, and fall upon King James VI. as heavily as it did upon him. For, fays he, " Had Sir George inserted " these Words, Segregatos è medio Pictorum Sco-" tos, it would have been obvious that there was " no Ground for what that King, Bafil. dor. p. 201, " afferts, viz. That King Fergus made himself " King and Lord, as well of the whole Lands, as of " the whole Inhabitants." But had our Author vouchfafed to have lookt into that Treatife of King James VI. which is not his Basilicon doron, (as Sir George and he mistake it) but that entituled, The true

true Low of free Monarchies, &cc. he would have found, that King Fames has taken in these Words of Fordon, (tho' he cites him not by Name) which he blames Sir George for omitting. To make this plain. I shall give the Reader that King's Words at length, as they are let down in the faid 201st Page of his Works. " For, fays be, as our Chronicles " bear witness, this Isle, and especially our Part. " of it, being scantly inhabited but by very few, " and they as barbarous and scant of Civility, as "Number; there comes our first King Fergus, " with a great Number with him, out of Ireland, " which was long inhabited before us, and ma-" king himself Master of the Country, by his own " Friendship and Force, as well of the Ireland-" men that came with him, as of the Country-men " that willingly fell to bim, he made himself King " and Lord, as well of the whole Lands as of the " whole Inhabitants within the same." Here we have a Paraphrase of Fordon's Words, and which might feem rather to fall short than to come up to the full Meaning of them, even as our Author fets them down in his Margin: For the King has nothing for these Words, qua forsan regnare tetenderat, and ambitione regnandi stimulatus; which import, that his becoming King flowed from the Defign he had form'd to himself of being so before he left Ireland, and the Power he brought along with him to effect it, and not from the free and voluntary Election of the People. It was indeed at that Juneture highly their Interest to comply with his Design: But had it been otherwise, they were far from being in a Condition to oppose it. This helps us to reconcile Fordon to himself, when he says after-

afterwards, (6) Ad banc infulam adveniens Fergufius, Scotorum primus Rex in ea creatus est; i.e. as I take it, the People made a Virtue of Necesfiry, in creating him their King, or tacitely submitting themselves to him as such, who otherwise would have been so whether they would or not. But let all these Things be as they will, (For who can be fure in a Matter of so remote Antiquity?) our Controversy is very little concerned in it. Let King Fergus L come to the Throne by as pure and free an Election of the People as our Author can desire; vet after a certain Constitution was made, and the Crown is confirm'd to his Posterity by the strongest Obligations that Men can be brought under, the Election of the People must then cease, and cannot ever after take place.

But we must return back to what our Author. fays of King Fames VI. (whom and his Family our Author and his Party can never forgive) tho' one would expect that (out of good Manners and Regard to his present Majesty, who is descended of him, and from him derives his Title to the British Throne) he would be more sparing of his injurious Reflexions upon that excellent Prince, especially here, where he has not the smallest Handle for them. He fays, " That the King af-" ferted these Things when he was aspiring at ab-" folute and uncontroulable Power and Preroga-" tive, and would ground his Claim upon this, " that Fergus made a Conquest of the Nation." His Majesty says no more than Fordon our most antient Historian had said before him, and that not

an fo strong Terms (as I have observed) as he. None of them use the Word Conquest, tho' the Thing looks something like it; but the one, super eos Regem se constituit, and the other, he made bimfelf King and Lord. He adds indeed the Word Lord, but is not that implied in the Word Rex or King? And is there any Phrase or Form of speaking more common than our Sovereign Lord the King? Yes, but he calls him Lord, not only of the People, but also of all the Lands in the Kingdom. Was he not King of Scotland, as well as King of the Scots? Or is it a higher Title to be Lord of Lands than of Men? Do not the Voice of all our Laws attribute to him the direct Dominion of all the Lands and Estates in the Nation? Do not all the Possessor of them hold them mediately or immediately of him, and do him Homage and Service for them? Nay, if we will believe our Historians, the Kings of Scotland were the immediate Proprietors of these Lands themselves down to the Reign of Malcolm II. who divided them among his Nobles; and yet not fo, but that he still retain'd the direct Dominion, the supreme and paramount Lordship over them all. But why does our Author talk of that King's aspiring at absolute or arbitrary Power? Did he ever carry his Power higher than other Kings of Scotland or England, or even his immediate Predecessor, the so much extoll'd Queen Elizabeth? I give a Defiance to all the World (I except' Bp. Burnet, Oldmixon, Coke, and other fuch like Writers of fecret Histories) to give an Instance of one Act of arbitrary Power exercised by him in either Kingdom; unless it was, that he would not Suffer these Ecclesiastical Tribunes to act arbitrarily and Like and

Practice when he was in Scotland, where they left him little else than the Name of a King (p). In the twenty two Years that he reigned over the whole Island, he brought the two Kingdoms, especially that of England, to such a Degree of Honour, Riches and Power, that they never before enjoyed the like, which rendred them the Admiration and Envy of all their neighbour Nations. Are these the Signs or Effects of arbitrary Government? If they are, I could almost be reconciled to it, and think

(p) How much this good King was abused by the religious Demagogues in his Time, how he was affronted in his Prefence, railed at in his Absence, twice made a Captive, and as oft, if not oftner, in danger of being affaffinated by them and their Leaders, is to be feen in the Histories of those Times. But as none can better describe the Injuries one meets with, than he that has felt them, I thought it would not be amiss to lay before the Reader the Description which that King himself gives of them in general, in his Basilicon doron, lib. 2. p. 160. " Take heed therefore, " my Son (says he) to such Puritans, very Pests in the Church " and Common-weal, whom no Deferts can oblige, neither or Daths or Promises bind, breathing nothing but Sedition or and Calumnies; afpiring without Measure, railing without " Reason, and making their own Imaginations (without any "Warrant of the Word) the Square of their Conscience. " I protest before the Great GOD, and fince I am here as " upon my Testament, it is no Place for me to lie in, that er ye shall never find with any Highland or Border Thieves greater Ingratitude, and moe Lies and vile Perjuries, than with these phanatick Spirits: And suffer not the Principals of them to bruik your Land, if ye like to fit at Rest; ex-" cept ye would keep them for trying your Patience, as So-" crates did an evil Wife." What Answer do such People return to these Things? Why? They cry Thief first, and declare themselves that King's irreconcileable Enemies; for no other Reason, but because he would not bear their Sway, and fuffer himself to be insulted and maletreated by them:

think the People happy that live under it. Thus much I thought fit to say of this truly just and religious Prince: I would also add peaceable, but that some fiery Spirits reckon that among his greatest Faults. Every King that does not delight in War, is branded by them with the opprobrious Name of Coward, and he is the best King who is most unlike the great King of Salem, the ever bleffed PRINCE OF PEACE!

Our Author next (q) endeavours, by a nice Piece of Criticism, to make the two Passages in Fordon to agree with one another. In the former. super eos Regem primum se constituit, he would have the Word Regem to fignify a Leader and Commander; and the Word primum to be taken adverbially, for primo. In the latter Place, where Fordon fays, Fergusius Scotorum primus Rex creatus est, he will have him to have used the Word Rex in its common Acceptation, and the Word primus (as it there must) for an Adjective. This he thinks will falve all, and so our Fergus I. will still be an elective King, according to Fordon. But, if Fergus I.'s Election cannot be otherwise made out, than by this our Author's Distinction, I am much afraid it will here fail him. For, 1. Tho' the Word Rex may sometimes in antient Authors (r) be used for a great Lord, Leader or Commander; yet I am pretty positive, that after the Decline of the Latin Tongue, and much more in Fordon's

<sup>(</sup>q) Pag. 32.

(r) Monf. Dacier will have Reges atavi in the first Ode of Harace to be taken in that Sense, and brings some Examples for it from other Authors. But F. Sanadon after him, and all others before him, are of another Opinion.

Time, it was always taken in the common Signiffcation. 2. Rex here must be taken in the same Sense with the Words regnare tetenderat, and am bitione regnandi stimulatus, going before; but no body ever heard the Verb regno used for being a Captain or Leader. 2. It cannot be faid, that now only, after his Arrival in Scotland, Fergus did first make bimself Captain over those he brought along with him, as well as the Scots that were there before him. Of the former he was Captain before he left Ireland; and, I hope, he needed not a new Act to continue his Power. 4. If he made himself Captain over the Scots, who (as the fame Author tells us in that Place) were acephala gens, a People without a Head, and who wandred absque rectore per vastas Albionis solitudines; it is the same thing, as that he made himself their Head, Lord or King, without any other Election. than that of bare Submission: For, as Buchanan in his Dialogue de jure Regni observes (s), it is of small Importance what Name the supreme Magi-Arate be called by, whether that of Ren, Dux, Imperator or Conful. So that, if Fergus made himself Commander over the Scots, then a headless People, he did in effect make himself their King. 5. If primum is to be taken in Fordon for primo, it will hardly be Sense. For it is very incongruous to tell us in this Chapter of his first Book, what Fergus did first, and leave it to the 12th Chapter of the following Book to tell us what he did, or was done to him, next. 6. That Fordon uses the Word Rex in the common Acceptation, appears from the next Chapter of this his first Book, and but a few Ines Montanting Lines

Lines after this; where, tho' he tells us, that the Scots and Riots entred that Part of Britain much about the same time, yet the Scots were governed by Kings without Interruption almost from the Beginning; but, fays he, the Picks had no Kings for upwards of two hundred Years after, non Regibus, sed judicibus ust funt, till Cruchne the Son of Clement, one of their Judges, taking up, by Violence, the Enfigns of Royalty, became King of that Nation. Here we fee in what Sense Fordon uses the Word Rex, which makes it utterly improbable that he would use it in another, eight or nine Lines before. We here likewise see how the Pictish Monarchy (according to Fordon) was first founded: And I have some Reason to believe, that that of Scotland, when ever it began, had much the same Original; at least, that it did not take its Rife from a formal Election. Our Author concludes here with these Words, " In this Passage of For-" don's 1st Book Sir George Mackenzie raises his " Superstructure, which having (as be thinks, by bis nice Criticisms, he has made out) a Foundation " of Sand, cannot be firm." But, as I likewise think I have proved, that that Passage in Fordon is not capable of any other Sense than what King James VI, and Sir George Mackenzie have given it, I leave it to the impartial Reader to judge, whose either Foundation or Superstructure have most of Sand or Solidity in them. As for the Passage in Fordon's 2d Book, which he thinks without his ars critica cannot confift with the former, let him fee to that; and take what Side he pleases, I shall not now discord with him. But he must not raise a fanciful Superstructure of his own upon it, that because

cause our first King was elective, therefore all the rest were so; for that is a Thing I will never

yield him and show I said sales out?

AFTER this our Author falls a wrangling with Sir George Mackenzie for some Pages together, upon a Supposition that he would have our Fergus I. to have made himself King of the British Scots by way of Conquest: And from thence would infer, that he has involved himself into Contradictions or Nonfense. But in this he misrepresents or mistakes Sir George's Words. He no where calls that King's Acquisition of the Crown of Scotland a Conquest: And neither could he in the strict Sense of the Word: For Conquest Supposes a State of War between the Conqueror and the Conquered; whereas Fergus came to the Throne in a peaceable Manner, and without any Opposition. Nay further, Sir George (tho' he argues that Fergus had a Title to the Crown, as being Son of Ferchard the chief King of the Scots in Ireland, of whom these in Scotland were a Colony, and that upon his coming over he brought along with him the Fatal Marble Chair, the Mark of Empire, which fignified his Intention of making himself King) still owns that Fergus had also the Consent of the Heads of the Tribes, by which they recogniz'd his Title, and acquiesced to his Authority. There is nothing in all this, but what fairly agrees with Fordon's Account of the Matter; and his Words, Primus Rex in ea [sciz. Albione infula] creatus est, are to be interpreted by what he fays afterwards in the same Chapter, " Deinde post multum tem-" pus veniens quidam Rex ex Hibernia, nomine Fergusius, filius Fercbardi, regalem in Scotiam Secum. M 2

" secum deserens cathedram, marmoreo lapide deci sam, in qua primus ibidem Rex à Scotis corona" tus est." If we take the Words creatus est in another Sense than of his coronation, we make him statly contradict himself. Here he calls him a King before he lest Ireland: And why should he carry along with him the Marble Chair, which was omen to symbolum regni, and the inaugural Throne of all his Royal Ancestors, down from Gathelus, the sirst Founder of the Scotish Race, if he had not a sirm Purpose of being their King in Scoland; to which the scotish Chiefs might give their Consent and Approbation, yet he seems not in the least to have put it upon the Issue of a free Election, whether he should be their King or not.

WHAT our Author adds concerning the Right which a Conqueron acquires in a just War, and the Submission due to him by the Conquered, in a War that is not just, I entirely pass over, as quite foreign to our Purpose, there being no War, and confequently no proper Conquest in the Case before us.

Our Author p. 34, falls into a gross Anachronism (which too he would father on Sir. George Mackenzie, citing Words, as if they were his, for it) that Ferchard was the Son of Gathelus; and he repeats it again in the following Page, that Ferchard was the Son, and Fergus the Grandson of Gathelus. Sir George knew our old Historians better than to fancy, much less to assert, any such Thing. For if Gathelus was contemporary with Moses, and Fergus I. with Alexander the great, as Fordon, Boece and Lessy give out; then by the Computation of all our best Chronologers, there were no less than 1290 Years between them.

This our Author might have learned, if from Northing else, from the famous Letter of our Nobility to the Pope, Anno 1320 (on which afterwards he lays great Stress;) where that Number of Years is expressly mentioned, too large a Period for two or three Generations of the ante-deluvian Fathers.

I am indeed persuaded, that all that our Historians relate of Gathelus, and his Descendents in Ireland, are pure Fiction; and I have no much better Opinion of what they say of our Kings, from Fergus I. to Fergus II. But as our Author would needs build his Arguments upon them, I must take their Relations as they give them: And I think I have proved, that whatever he may say of our three later Historians, the first and best of of them makes much more against, than for his Scheme.

THERE is another Mistake our Author has faln into [it may be an Error of his Printer] when p, 33, he says, "That the Picts remained a separate Kingdom, till the Reign of K. Kenneth III. who "fubdued them." Whereas it was not Kenneth III. but Kenneth III. who subdued the Picts, upwards of 100 Years before this last Kenneth's Reign.

Our Author next proceeds p. 36. to shew after what Manner Fergus I's Successors came to the Crown: And that he does (thus far faithfully) from three of our Historians, Fordon, Boece, and Buchanan, but placing this last first, as making most for his Purpose. He indeed (and in this he sollowed Boece) narrates the Matter very indesintely, viz. "That when the next in Blood was, because of his being under Age, unfit to goyern, one of his Kindred, who seem'd to be best "quali-

qualified (i. e. without Regard whether he was " more nearly or more remotely related to the de-" ceas'd Predecessor, provided he was of the Royal " Race) should fway the Sceptre." But Fordon is express in the Rule of Succession, for he tells us (1), that not he indefinitely, whom the People thought best qualified, but, ut Regis cujusque decedentis frater, aut filius fratris, si filio Regis atate Inot, si illius Regis atate, as Mr. Logan has it,] non fuerat ac habilitate potior, quamvis gradu remotior, ipsum pracederet ad regendum. By which 'tis plain, that (according to Fordon) by this first Constitution of our Government, when the next immediate Heir was under Age, the nearest in Kin to him, and no other had the Right to fucceed; and that upon his Death, the Heir, who because of his Non-age was pass'd by, if now of a fit Age, was to come in his Place. That this was the true Rule of Succession of our Kings before Kenneth III. we have not only this Testimony of this our most ancient and most to be credited Historian: but also a Confirmation of it in Fact, both in him and all our other Writers, who constantly relate that down to that second Period, upon the Death of a former King, his Son, or (who was certainly next him according to that Rule) his Father's Brother, or his Son did fucceed. If fo, among the many idle Inferences our Author makes, with respect to that Matter, the ninth and last, (which is the only one worth regarding) is evidently falle viz. " That " the Proximity of Blood was not to be regarded " as to a Successor, but the Ability of one for GovernGovernment in one come to Years of Manhood: If one was better qualified for the Administration, he was to be King, tho' he was not
next of Kin." Whereas by what I have faid
it appears, that the Successor was under the
first Constitution, as regularly pointed out, ascertained and determined, as under the second:
With this Difference only, that under the first,
the Right of the elder or only Son (if there was
any) if a Minor, lay dormant, till his Uncle or
next Relation (whoever he was) who had by that
Law got the Government, did by his Death make
Room for him: But under the second Settlement,
the next in Blood, tho' ever so young, did immediately succeed.

But our Author will allow me to glance a little at some of his other Inferences: As 1/t, " That " Ferlegus the eldest Son of Fergus did not succeed him. 2d, That during the Minority of " Ferlegus, there was no Regent to act in his "Name. 3d, That Feritharis the Brother of " Fergus was made King. 4th, That Feritharis was not obliged to resign, when Ferlegus " came to the Years of Majority, but that he pos-" sest till his Death. 5thly, That upon the Death of Feritharis, Mainus, Fergus's second " Son, did succeed him. 6thly, That this Order " of Succession was made a Law for the Time to " come. 7thly, That this Law obtained till the " Days of Kenneth III. 8thly, That this Method " of Succession obtained among the Piets, and the " most of Kingdoms." The first seven of these are agreeable indeed to our later Historians, but Fordon, Major, and Winton have not a Syllable

of them, and I shall hereafter bid fair to prove them not only fictitious, but most unlikely to be true. In the mean Time I would ask our Author, how he comes to say in the End of his fifth Inference that it seemed that Feritharis out-lived Mainus. This certainly is an Error, either of his Printer, or himself, in substituting the Name of Mainus, instead of that of Ferlegus: For he had faid just before, that Feritharis was dead before Mainus came to the Throne. But neither feems it true of Ferlegus, but the contrary; for according to our Author's own Boece, upon whose Fictions all his Inferences are founded, Ferlegus was suspected to have had a Hand in Feritharis's Death; after which, fays that Author, he fled first to the Picts, and then to the Britons, where he ended his Life in great Ignominy. Our Author's 8th Inference is, that the Picts, and mast other Kingdoms, followed that Method of Succession, which then obtained among the Scots. Fordon indeed and Boece fay fo, but I much doubt of the Truth of it. It was otherwise I am fure, in the Kingdom of Judah, in which the Rule of Succession was appointed by God himself; and, according to it, Fosiah the best of its Kings came to the Crown when he was but eight Years old; and Manasseb, his Father, a very wicked King, succeeded at rwelve.

In our Author's next Paragraph, p. 40. he advances such Things, as I know not whether I should be angry at or sorry for him. The former I have resolved against, but the latter I cannot help. The Design of it is to overthrow "the Ar-

" gument

" gument brought by Sir George Mackenzie, from the Oath which the Chiefs of the Clans " gave to Fergus, when they acknowledged him " for their King." This Oath Sir George fets down at large from H. Boece : But fays our Author, " It is more distinctly express'd by Bu-" chanan than any other of our Historians?" Buchanan may be more brief or succinct in his Way of expressing it; for he says no more, but, Fergusio victore domum reverso; Scoti ei posterisque es jus regnum jurejurando confirmârunt: But Hector and his Epitomizer Lefly, are much more full and explicite; and as that would feem to have more of Distinctness in it, they have it. The Oath however is very plain in them all, (except Fordon and Major, who speak nothing of it) and our Author does not in the least disown it. But says he, " It is plain that it was binding on them who " took it: But it doth not appear, that it was " binding on all the Descendents for ever from " them." If it was not binding on their Descendents for ever, I ask when it was to stop, or how many Generations after it would require, to free them from the Obligation of it? These our Heathen Predecessors, blind and barbarous as they were, had yet a great Regard to Oaths, and ingenuously thought, and certainly design'd, that that most solemn one (if any such there was) should bind them and theirs fo long as they were a Nation; who accordingly have religiously observed it to this Day. 'Tis true there are but too many among us, who in the new glorious Times of Christian Liberty, have got a new Light, and think that, because such Oaths cramp and fetter that Liberty,

berry, they are freed from the Obligation of them, not only with Respect to their Descendents, but themselves. But our Forefathers, not only under Heathenism, but Christianity, to their eternal Commendation, had other Notions. They were firmly perfuaded that a folemn Oath, entred into by a whole People or Nation, if lawful, (as this, if true, certainly was) did bind them and their Poftority for ever. Otherwise why did they take fuch Oaths, when, if their Posterity was notwithflanding free, they had no Right to lay fuch Obligations on them! Nay, it was a Kind of Perjury in them, to swear to that which it was not in their Power to cause be performed. Nor were they the only People that took fuch Vows or Oaths upon them. For, to pals other Heathen Nations, who, as they then, had nothing but the Light of Nature to direct their Practice; we have Examples from the Word of God itself, wherein such Oaths were taken, and thought obligatory on the Defeendents of them who took them. Thus the People of Ifruel entred into a Covenant with Almighty God at Horeb, in which they vowed, that the Lord Febovah should be their King, and they his People, (which Mr. Tindal and his Followers will have to have been a free and voluntary Election of him, to be their God and King, and without which he had no prior Right over them.) And that this laid a perpetual Obligation on their Posterity, appears from the severe Rebuke given to the Descendents of that People, at bout 400 Years after, wherein they are condemned for rejecting the Theocracy they were then under, and their defiring to have an earthly King, to go in and out before them, as their Neighbour Nations

( 99, )

Nations had. We have another Example confirmed by God himself, that an Oath made by a People is binding on their Posterity, in the Case of the Gibeonites; who, tho' they were a Nation devoted to Destruction, and had by Subtilty and Falshood procured an Oath of the Ifraelites, that they should not be cut off with the other Canaanitish Nations; this Oath was notwithstanding judged so strong a Tye upon the People of Ifrael, that when many Ages after, King Saul caused many of these Gibeonites to be slain, God as a Punishment for that Breach of Faith, fent a Famine of three Years upon the Lands Nor could that Sin be expiated, or the Punishment diverted, till seven of K. Saul's Sons were bang'd up before the Lord, as we have at large related 2. Sam, xxi. We have a third and a very remarkable Instance in the Rechabites, who in the Time of Jeremiah thought, that a Command laid upon them by their Forefather Fonadab the Son of Rechab, that they, their Wives, their Sons and their Daughters should drink no Wine, neither build Houses, nor sow Seed, nor plant Vineyards for ever, they could not be induced by the Prophet to break that their Forefather's Commandment, tho' laid upon them near 300 Years before. And yet we see how highly pleafing this was to Almighty God, that the Prophet tells them in his Name, Fer. xxxv. 18. 19. Thus faith the Lord of Hasts, the God of Israel, Because ye have obeyed the Commandment of Jonadab your Father, and kept all his Precepts, and done according to all that he bath commanded you: Therefore, thus faith the Lord of Hofts, the God of Ifrael, Jonadab the Son of Rechab shall not want a Man to standbefore me for ever. But we want not an Example

of that Kind in our own Island, in the Vow and Promise made by the Lords Spiritual and Temporal and Commons in Parliament assembled, to our King James VI. upon his Accession to the English Throne. Their Words are plain, and at the same time so strong, that I have given them a Place in the Margin (u). And yet how idle and vain, not to say foolish and absurd, must this Act of theirs have been,

(u) " We upon the bended Knees of our Hearts do agnize our most constant Faith, Obedience and Loyalty to your ff Majesty and your Royal Progeny, as in this high Court of " Parliament, where all your whole Body of the Realm, and " every particular Member thereof, either in Person, or by Representation, (upon their own free Elections) are by the " Laws of this Realm deem'd to be personally present." And a little after, " And in most humble and loyal Manner, " we do befeech your Majesty, that (as a Memorial to all Po-" sterities, among the Records of your High Court of Parlia-" ment for ever to endure, of our Loyalty, Obedience, and " hearry and humble Affection) it may be published and de-" clared in this High Court of Parliament, and enacted by the Authority of the same, That we (being bounden thereunto " both by the Laws of God and Man) do recognize and ac-45 knowledge (and thereby express our unspeakable Joys) that finmediately upon the Diffolution and Decease of Elizabeth 16 late Queen of England, the Imperial Crown of the Realm of England, and of all the Kingdoms, Dominions and se Rights belonging to the fame, did by inherent Birth-right, and lawful undoubted Succession, descend and come to your Majesty, as being lineally, justly and lawfully next thereunto we most humbly and faithfully do submit our felves, our Heirs and Bostefities for ever, until the last Drop of our Bloods be spent." Mr. Logan, I hope, and all others will acknowledge, that the Right to the Crown of Scotland was as strictly hereditary (I am fure there have been fewer Inrerruptions in it) as that of England; and yet there is nothing in these my Notes on Buchanan, which he finds so much fault with, which is not faid and more strongly exprest in this English Act of Parliament.

been, if they thought that it could lay no Obligation upon their Descendents? I could come lower down, and some nearer to our own Time, by instancing the samous Solemn League and Covenant, which by most of them that first swore to it, and by many since, has been judged of perpetual Obligation. But of it we shall have Occasion by and by

to speak.

Bur, fays our Author, " The Scots, who " fwore to our King Fergus I. and his Posterity, " thought otherwise, by the Law they made con-" cerning the Succession of their Kings, which " they observed for above 1200 Years." Strange, that the Scots should give an Oath, and yet so very foon after make a Law in a flat Contradiction to it. But wherein did this Law run contrary to that their Oath? Have not the Posterity of that King Fergus I. (even all Usurpers, except Cromwell, being included, possest the Scotist Throne, not only for 1200, but upwards of 2000 Years, according to our Historians? I know our Author will fay the Scots broke that Oath, in preferring Feritharis, Fergus's Brother (but not his Descendent) to the Throne immediately after his Decease. But that, if true, would bring the Breach of Faith, not so much upon their Posterity as upon themselves: For we are not to suppose that all that made that Oath to King Fergus, died with or before him. And this, tho' there were nothing else in it, is enough to convince me, that what is faid by H. Boeve and our other Historians that have followed him, concerning that King Feritharis, is absolutely fictitious. For the' these our Historians excuse the Scotish Nation, and write that

it was no Breach of their Oath, that they preferred this Feritharis (who was none of his Brother's Posterity) to the Crown, and gave him his Lifetime of it for no less than fifteen Years; yet to me it appears pretty plain, that, as our later Historians state the Matter, Ferlegus, Fergus's eldest Son, had a great deal of Injustice done him, by his being debarr'd from the Throne so long, and from the Right he had unquestionably to it, by the Oath which the People had given to his Father not many Years before. From this alone then, tho' there were nothing more, I firmly believe that all is Fable, and the pure Invention of Boece's idle Head, and that Feritharis, Ferlegus, Mainus, Dornadilla, and I know not how many more of them were Utopian, not Scotish Kings; and I wish Fergus I. has not lived and died in the fame Country.

HERE our Author gives his Argument a strange Turn, with no other View, tho' it makes nothing to his Purpole, but that he may take an Occasion to fatyrize King Charles II. " Now (fays Mr. Logan, p. 40.) let us try how Sir George's Explica-" tion of this Oath, given by the Scots to Fergus I. will agree to King Charles II. his breaking the Oath he took at his Coronation." It is true, Charles II. at his Coronation at Scoon, 1st of January 1651, swore to the Solemn League and Covenant, by which he, as well as all others the Subscribers of that unballowed Oath, did not only abjure Prelacy, but bound themselves to extirpate it out of Scotland at least, and to bring all Malignants, i. e. all that would not subscribe it, to condign Punishment, And it is not denied but that that King

King, upon his Restoration, was so far from thinking that Oath binding upon him, that he restor'd the primitive and Apostolical Government of the Church, by Bishops. And it is for this especially, that our Author and those of his Party brand that King as guilty of direct Perjury. But I answer,

t. WHEREIN does this touch Sir George Machenzie? Or will it hence follow, that, because King Charles II. did perjure himself (as our Author will have it) that therefore the Nobles and People of Scotland might falsify the Oath made to Fergus I.? Does not Sir George, on the contrary, maintain, that they neither did, nor lawfully could break that Oath, and that it was in virtue of it, that the Descendents of Fergus I. have successively possess this Throne to this Day?

2. Our Author tells us, p. 41, " That the " Parliament of Scotland had Reason to insist on "King Charles II.'s subscribing their Covenant: "For they knew, fays be, what Progress he had made towards Popery in his Exile, by going to Mass, and making a private Treaty with the " Crowns of France and Spain to the Prejudice of " the Protestant Interest." And for this he bids us fee the Life of King Charles II. p. 220. As to that King's going to Mass, it may be doubted if ever he did it, or was truly of that Religion. It is infinitely improbable, at least, that he would do it fo foon, as within little more than a Year and a half after the Death of his most pious Father, who had given as great Proofs of his being a found Protestant as ever King upon Earth did. And had his Son been otherwise, it is hardly conceivable how these Covenanters should at that Time have come to the KnowKnowledge of it. But it is impossible in the Navture of Things, that it could come to their Ears, what Treaty he had made with the Crowns of France and Spain to the Prejudice of the Protessiant Interest. For it was the Treaty of the Pyrenees which Bp. White Kennet (the Historian our Author remits us to) speaks of, and that was not concluded till the Year 1659, nine Years after King Charles's Coronation, and swearing to that dreadful Covenant in Scotland.

3. WELL; but did not King Charles break that his Oath? Yes he did, and for so doing he had

but too many Reasons. For,

(1.) THAT, as well as the other, called the National Covenant, was fet on foot and carried on in a most violent and oppressive Manner, and in a direct Opposition to his Father's just and lawful Authority. And for this I remit our Author to the Judgment of the High Court of Parliament in both Kingdoms after the Restoration: Particularly in that of Scotland Anno 1661 (v), wherein it is declared High Treason to the Subjects of Scotland of what soever Number less or more, upon any Pretence what soever, to enter into such Leagues and Bonds, without his Majesty's Special Warrant and Approbation .- And in particular, that the League and Covenant, and all Treaties following thereupon, are not obligatory upon this Kingdom, or the Subjects thereof. And in a subsequent Session of that Parliament (w), Anno 1662, it is declared, that these Oaths, whereof the one was commonly called the National Covenant, and the other entitu-

<sup>(</sup>v) Car. II. Parl. 1. Seff. 1. cap. 7. 1000 2000

<sup>(</sup>w) Car. II. Parl. 1. Seff. 1. cap. 24

led a Solemn League and Covenant, were and are in themselves unlawful Oaths, and were taken by and imposed upon the Subjects of this Kingdom, against the fundamental Laws and Liberties of the same; and there lieth no Obligation upon any of the Subjects from the saids Oaths, &c. And by another Act (x) of the same Session, all Persons in publick Trust are obliged to sign a Declaration, that in their Judgment both these Covenants were in themselves unlawful Oaths, &c. Which is also renewed in a third Session of that Parliament, Anno 1662 (y).

AFTER all these Acts of Parliament, not making, but declaring both these Covenants unlawful, will our Author have the Considence to involve King Charles II. in the Guilt of Perjury, in not observing his Oath to the last of them? I thought it was a Rule with all Casuists, that an unlawful Oath can bind to nothing but Repentance, and that the Breach of it was so far from being a Sin, that it was an indispensable Duty. The Pope has sometimes dispensed with lawful Oaths: But I never heard that he, or any of his Church, taught, that

an unlawful one was to be kept.

But our Author will perhaps say, that these Acts of Parliament were past under an arbitrary and tyrannical Government, and these Covenants were notwithstanding still obligatory. But it is hard to think, that King Charles II. would begin so soon, as in the 1st, 2d and 3d Year of his real Government, to act in an arbitrary and despotick Manner. He might have waited at least his quinquennium,

(y) 1bid. cap. 2.

<sup>(</sup>x) Car. II. Parl. 1. Seff. 2. cap. 5.

quennium, as Nero did, before he proceeded to such an Excess of his Power. But it does not appear that he used any Concussion, or took any indirect Means for bringing his Parliament or People to consent to these Laws. On the contrary, it seems certain that all was free and voluntary on their Part, and that they were as heartily sick of Presbyterial Domination as he himself was. But it ill becomes our Author to talk of arbitrary Government under that King's Reign, when it is notoriously known with what Cruelty and barbarous Treatment these Covenants were forced upon People of all Ranks in the Nation, and how those that would not come into the Measures of those autocratical Rulers, were persecuted, harasi'd, excommunicated, and, if they made Opposition, forfeited and put to Death.

(2.) It is no less known with what Reluctancy King Charles II. was brought to sign that unballowed Bond; how he put it off as long as he could, till it was told him by the then Church and State Governors, that they would not own him for their King upon any other Terms; and that if he would not do as they commanded him (z), he must return back to his former Exile. This was

fuch

<sup>(</sup>z) This as we have attested by many others, so particularly by his mortal Enemy Oliver Cromwell in his second Letter to the Ministers of Edinburgh, who had fled to the Castle, when he after the Battle of Dunbar, Anno 1650, had come to that City. His remarkable Words are by way of Query, "Whether, if your Reformation be so perfect or so spiritual, be indeed the Kingdom of the Lord Jesus, it will need fuch carnal Policies, such fleshly Mixtures, such unsincere Actings, as to pretend to cry down all Malignants, and

fuch a Force, that I doubt if our Author himself could have resisted it. And if he had been overborn by it, he has in p. 33 and 34. provided a Salvo, that would have freed him from the Obligation. For there he tells us, That if one is forc'd to seal Deeds conveying his Estate to another, such Deeds are not valid. And pray where is the odds between him that is forc'd to seal Deeds conveying his Estate from him, and him who has his Estate by Violence taken from him, by those who will not restore it to him again, unless he will bind himself by Oath, that they shall have the Management both of it and himself as they please?

(3.) It is a common Principle with the Affertors of the Popular Scheme, that whatever Bonds, Oaths or Vows, a People may give of Obedience to their King; yet there is a tacit Condition implied, that unless he perform what he is bound to, by his Coronation Oath or otherwise, they are as free from such their Obligation as if it never had been given. This can with greater Justice be applied

"yet receive and set up the Head of them, and so act for the Kingdom of Christ in his Name, and upon Advantage thereof; and to publish so false a Paper, so full of speci-

<sup>&</sup>quot;ous Pretences to Piety, as the Fruit and Effect of his Repentance, to deceive the Minds of all the Godly in England, Ireland and Scotland; you in your own Consciences
knowing with what Regret he did it, and with what Importunities and Threats he was brought to do it, and how
much to this very Day he is against it; and whether this
be not a high Provocation of the Lord, in so grossy dis-

otherwise a monstrous Hypocrite, has here told such Truths, as these godly Ministers neither could nor thought fit to answer or contradict. See Collection of State Papers of John Thurlo, &cc. Vol. 1. p. 162.

applied to that Oath made by King Charles II. For in that very Oath these godly Covenanters had forced him to fwear, they had likewise bound themselves to pay him all dutiful Obedience as their King. But how well they perform'd their Part, is known to all the World; first, by this, that they would not fuffer those, whom they called Malignants, who had always preserved their Loyalty to his Father, and on whose Fidelity he himself had most Reason to depend, to be join'd with, or affiftant to them in the War they were engaged in against the Invaders of this, and Possessor of his other Kingdom. Nay, there are publick Deeds of their then Church Tribunes, yet extant, whereby they declared, That unless he would put away these few faithful Noblemen and others he had brought along with him, and not admit those he could most trust to serve him, they would enter into a Treaty with his grand Enemy Cromwell; who, tho' he had fworn to that Covenant, yet he had not only broke it, but made a Mock of it to their Faces (a). And it was afterwards found,

<sup>(</sup>a) See the Letters that past betwixt Cromwell, and the Laird of Dundass then Governor of the Castle of Edinburgh, or rather the Ministers of Edinburgh, who after Cromwell's Victory in the Battle of Dunbar, September 3d 1650, had sted to that Castle, and tho' promised to meet with no Molestation, would not preach in their several Churches. In these Letters, which are chiefly taken up about the Obligation of the Solemn League and Covenant, Cromwell beats them with their own Weapons, he out-cants their canting, tells them that the Bulk of his Army were greater Saints, and that they better understood the true spiritual Meaning of the Covenant than they. Vide the Collection of the State Papers of John Thurlo, &c. Vol. 1. p. 158—163. I might here also

that one of the prime Supporters of that godly Cause kept a Correspondence with that Arch-Usurper, at the same time that he and the States of Scotland were treating with the King for his Return among them. From these things let the World judge, how faithful these People were in the Performance of their Part of that beavenly

Bond, as they called it.

I might add, that whatever Fidelity the King might hope for from the rest of his Subjects, he had little Reason to expect any Good from the Ringleaders and Contrivers of that Association. He could not but with great Grief, as well as Indignation, remember how, a few Years before, his Royal Father was by an Order of a Parliament of theirs, then sitting at Edinburgh, persidiously sold and delivered up into the Hands of his inveterate Enemies; who, the very Year before this, in an unparallel'd Manner, to the eternal Reproach of both Kingdoms, and Astonishment of all the Nations around them, did barbarously and cruelly put

also add, how the Independents, who, tho' their own genuine Offspring, had got the Ascendent of them, and now slighted and contemned their Covenant, as much as any Malignant could do. There were some among them, who, in plain Terms, pleaded Religion for the breaking of it. J. Lilburn, for instance, in his England's Birth-right, p. 29. says, The Covenant is impossible to be kept, and that the Framers and Makers of it have run into wilful Perjury. Nay, he calls it, this Make-bate, persecuting, Soul-destroying, England-dividing, and undoing Covenant. And Mr. J. Goodwin, a prime Pillar of that new fashioned Church, tells us, (in his Twelve Cautions, p. 4.) that to violate an abominable and accursed Oath (speaking with Reference to this Covenant) out of Conscience to God, is an HOLY and a BLESSED PERJURY.

him to Death (b). It could not but also much affect King Charles II. that at the Time the Scots Commissioners were treating with him at the Hague, and a few Months before his coming to Scotland, these bloody Covenanters had in a most igno-

(b) 'Tis true, the Presbyterians in Scotland (tho' not all of them, for many of them yet approve of and glory in that monstrous Wickedness) plead Innocence, and deny that they had any Accession to their King's Death: Yet when it is confidered that they began the Rebellion, by rifing in open Arms against him in this Kingdom, and joining with his declared Enemies in England, and afterwards when, upon their Invitation, he put himfelf into their Hands, they most treachesoully and bafely fold and delivered him up to those his inveterate Enemies, whose Malice they knew nothing could fatiate. Let these Men, and those of the same Principles since, go about to apologize for themselves; but they may as well endeavour to make an Ethiopian white, or change the Spots of a Leopard. The great Salmafins, otherwise an eminent Defender of Presbyterial Church Government, has in his Defensio Regia, p. 257. no less truly than eloquently stated the Cafe. For, after he has compar'd it to a Tragedy, (as well he might, it being the most difmal and wicked that ever was acted on the Theatre of this World) he says, That the four first Acts of it were perform'd by the Presbyterians, and that they left the fifth, or the Catastrophe of it, to their Heirs. The Independents; and then adds, Et quinam alii merito Regis occisi erimine notari, magis debuere, quam qui viam ad eum occidendum munierunt ? Illi funt qui nefariam illam fe-Eurim vervieibus ejus inflicerune, non ain. Si latro viatorem per filvam tranfountem infidiis exceperit, gladio discinotum. crumena fpoliatum, vestimentis etiam postremo nudatum, at plerique faciunt, ad arborem religaverit, & fera filvefiris de noble superveniens, ac miferum se revinotum offendens. invaferit, Santaverit & consumpferit; eni debet adforibi morhis eins vausa? latroni, un fera? Ille amovit ensem viatori. who fe defendere porerat, o insuper vinotum dikaterandum tupis objects. Ergo ille porius ticulum hujus cadis, quam bel-Ina, feret. Musatis nominibus, hac fabula Presbyterianis comvenit, quenium ves eatlem eft. Thus he, and a great deal more to the same Purpose.

ignominious Manner cut off the great and ever renown'd Marquis of Montrofe, tho' he had before the Father's, and now the Son's Commission for what he did.

THERE is one Thing however had almost escaped me, as it has done our Author, who might, if he had pleas'd, have added as an Aggravation of King Charles II.'s Guilt, that besides the subscribing of that their holy League, he was obliged also to abjure the Sins of his Father's House. And what was the most hainous, if not the only Sin of his Father, but this, that he would not, in compliance with their Covenant, abrogate Episcopacy in England; tho' he had so often declared, That it was not only contrary to his private Conscience, but also to his Coronation Oath, by which he was bound to maintain that Form of Government? This is the hardest Case in the World, that one King should be accused of Perjury, and another for not perjuring himself; the one for breaking an Oath he could not lawfully keep, and the other for keeping an Oath he could not lawfully break.

(4.) But our Author is not aware, that in this his Accusation of King Charles II. he will be obliged to bring in the greatest Part of the Nation, at least the Representatives of it both in Church and State, as equally guilty of Perjury with him. For it is certain that many of the Members of Parliament had subscribed that Oath, which by their Acts they afterwards condemned: And did King Charles do more? Again, after the Restoration, it is said that near 700, and 'tis certain the far greater Part of the then Presbyterian Ministers in Scotland

Scotland did fubmit to and comply with Episcopa cy. And it could not fail, but that a great many among them were living who had taken that Oath which made it unlawful to do fo. Nay, in the Diocese of Aberdeen alone there were upwards of thirty (among whom was the late Divinity Profeffor Mr. Meldrum) who petitioned the King and Parliament for the Restoration of Episcopacy. What shall we think of these Men? That they acted the Part of Hypocrites? Ought we not rather charitably to believe, that they really had altered their Opinion, and came at last to be perfwaded that these Covenants could not come from Heaven, (as at first was given out) which brought so much Misery and Desolation upon three flourishing Kingdoms. And if so great a Number both of Laicks and Ecclefiafticks in Scotland changed their Minds, might not King Charles II. (who had more Reason than any of them) change his? Tho', as I have faid, it was by Force, and not by Perfuasion, that he was brought to put his Name to it at first.

(5.) I have one Thing more to add, which is to shew that our Author's Party can play fast and loose with Oaths, more than any King of Scotland, or of any Nation, ever did. In that ever memorable Assembly of theirs, anno 1638. by Act 16. it is declared that Episcopacy was abjured by the Confession of Faith anno 1580. Now it is odd, nay absurd to think, that King James VI. and his Houshold, who subscribed that Confession the said Year, and that Persons of all Ranks, who subscribed it the Year following, as they also did anno 1590, and lastly, when it was renewed and subscribed again, by his Majesty Charles I.'s special Command, by James

James Marquis of Hamilton, then his Majefty's Commissioner, the Lords of secret Council, the Lords of Sellion, and a great many others, anno 1628, did all thereby abjure Episcopacy: When it is notoriously known, that in all our Parliaments, from the Year 1570, to the Year 1606, wherein the Estate of Bishops was more fully settled, than it had been for some Time before, several Archbishops and Bishops, as also some temporal Lords under the Name of Abbots, fat in Parliament pro clero, and as the first of the three Estates, and who certainly had subscribed that Confession as well as others. But if they subscribed it in the Sense of the Assembly 1628, they did manifestly, not only perjure themselves, but also declared that they were Usurpers of an Office that they thought unlawful. But what shall we think of them, of whom no doubt many were in this Assembly, who from the Year 1610, (when that Form of Go vernment was fully fettled) till then, i. e. for 28 Years, lived under Bishops, and had owned their Authority, and at the fame time had either subscribed to, or acknowledged the Obligation of that old Confession; must they not likewise have been perjured, and do they not by this Act of theirs declare plainly that they were so? And ought they not, before they proceeded to condemn others, to have past Sentence against themselves for so doing? But perhaps they had some mental Reserves, that there was a Force put upon them, that there was no keeping, or coming at a Church Living without fuch a Compliance; and that if they had done otherwise, they must have starved: Which with some is as hard, as to have a Dagger put to one's Break,

Breaft, for delivering his Purfe, or conveying as way his Estate, to those who have no Right to them. And if in this last Case no Obligation, according to our Author, p. 34. is binding, so neither might they think it in the other. But let them bring themselves off as they best can; yet in the Name of Goodness, who gave them a Right of judging others, and determining the Sense in which the Supreme Magistrate who enjoined, and innumerable others who fubscribed that Confession, did take it? It is certain, there is not a Word of Episcopacy or Prelacy in it all; and if that was then reckoned so damnable and Antichristian, as these Men in that Assembly represented it, and was designed to be abjured by it, why was it not at first, at least in the after Renewals of it, expressed? I may also add, that we have a clear Proof that many, if not most of them, that, at the time before mentioned, subscribed that Confession, had no such Notion of the Matter. But it seems, that as our Saviour said of the Samaritans, Joh. iv. 22. That they worshipped they knew not what; so these former good Protestants, subscribed they knew not what, till a new Generation about 50 or 60 Years after arofe, who by a wonderful Sagacity, discovered what was, or ought to have been the Intention of the old Subscribers; and that if any of them did afterwards comply with Prelacy, they were in spite of themselves all perjured (c). But good God! What shall we think, and how astonishing is it, that among all these, who gave them-

<sup>(</sup>c) See all this, and much more, made as manifest as the Light, in King Charles I.'s large Declaration, published Anne 2639.

selves out for the strictest Purity of Religion, 28 well as Integrity of Manners, there should be found only one, who had the Courage and Conscience to deny, that the first Subscribers to that Confession did abjure Episcopacy. This was Mr. Robert Baillie, Professor of Divinity in the University of Glasgow, one of the most learned, and I say too little, when I add, the most honest in that famous Convention. In one Thing however they acted very cautiously, before they proceeded to this terrible Act. There were no less than fix Assemblies, and many Acts of Parliament that stood in their Way, They therefore must be first demolished; which by their omnipotent Power, they did at one Blow, For by their 12th Act they found fo many Flaws and Nullities in them, as rendred them of no Force at all. The first four General Councils, in which few or none but Bi-Shops sat, ought to have undergone the same Doom. But all Councils, Churches and Fathers, not only may, but have actually erred. Only the Presbyterial Church of Scotland has a just Title to Infallibility!

AGREEABLY to this, in their next Act, the very Day after, by a Kind of Papal Power, they absolved all Intrants to the Ministry from the Oaths they say had been exacted of them by the Prelates. Did the Prelates force these Oaths upon them, by holding Daggers to their Breasts? No, I suppose, they voluntarily offered themselves; and as they then thought these Oaths lawful, they would probably have kept them too, had these Fathers let them alone; But they having absolved them from these Oaths as unlawful, there was no Danger of Perjury in the Case!

P 2

Case! But they should first have absolved them felves, who had fworn Canonical Obedience to those Prelates, whom they now find had no Authority to exact it. That they were bound at their Admiffion, to swear such Obedience to their Ordinaries, is plain by Act, James VI. Parl. 21. cap. 1. anno 1612, and 'tis not to be doubted, but these Ordinaries (as none are more tenacious of what they think their Rights, than Churchmen of all Denominations are,) would require it: I would ask them whether they thought fuch an Oath lawful or not? If lawful, it was certainly owning Episcopacy to be lawful, and consequently not abjured by the Confession anno 1580. If they thought it unlawful, it was certainly a very crying Sin, especially in Ministers of the Gospel, to be taking Oaths for fo many Years, which they themselves thought all the while unlawful. But they will, and did fay, that before that Time it was lawful; but after that the supreme Authority of the Church, which was the only Judge competent, had declared it to be otherwise, it became not only consequenter but antecedenter unlawful. But who were they that did constitute this supreme Authority? Why? these very Men, who before, and in their private Capacity, had judged these Oaths lawful, but, now in their publick Capacity, judged them unlawful; as if Things did alter their Nature, according as they fall under a private or publick Cognizance. Things indeed indifferent may become unlawful, if the fupreme Authority shall think fit to prohibit them; but that they were unlawful before that Prohibition, he must have a strange Boldness that will venture to affert.

THERE

THERE is another Act of that all-powerful AF fembly I ought not to omit; it is their 17th, by which the five Articles of Perth (which had been established by a former Assembly Anno 1618, and was afterwards ratified in Parliament Anno 1621) are declared to have been abjurd in that fo oft fubscrib'd negative Confession, as it is commonly called. But whatever Nullities may be pretended to that Assembly, and to the Parliament that confirm'd its Acts; if these five Articles were really abjur'd in that Confession, then it must certainly follow, that all these who had subscribed that Confession, or owned the Obligation of it, and had afterwards voted, either in Assembly or Parliament, for the Observation of these Perth Articles, were perjur'd, as having acted contrary to what they had fworn or own'd before. But I must add further, that I do not see how the prefent Ministers of the Presbyterian Church with us can account for their Actions. By that Act 17th, private Baptism, among other things, is condemn'd, as favouring of Popish Superstition, and contrary to the Religion then profess'd in Scotland; and yet I know no Presbyterian Ministers that now have the least Scruple to administer that Sacrament in private: Which is the more inexcusable in them, that the fuperstitious Church of England does not allow Baptism in private, unless there is a Necessity for it, or Danger of the Child's dying without it.

I am afraid every Reader will not forgive me for this long Digression, and I own I have nothing to excuse it, but that I could not otherwise vindicate King Charles II. from that Reproach, which is eternally thrown out by almost every true-blue

Presby-

Presbyterian, upon the Memory of that good Kingdir a minds is it is their a range I

FROM what I have faid, it will, I hope, now clearly appear, how unreasonable it is in Mr. Logan to accuse that Prince of Perjury, for breaking an Oath, 1. Unlawful in itself: 2. Forced upon him: 2. Null, because those to whom it was sworn did not perform their Part : 4. Condemn'd and abrogated by the highest Authority of the whole Nation, as not only unlawful, but imposed contrary to the fundamental Laws of it. Whereas in the innumerable Oaths I have mentioned, impos'd fome by lawful Authority, others in a direct Opposition to it, there must have been a vast Number of Perjuries one way or other. If there was any Force or Compulsion used, it was only used by those of his Party. As to King Charles II. all that he required was, that his rebellious Subjects would renounce these Oaths and Bonds, which had first brought his Father to the Block, and were after renew'd to destroy himself.

To proceed then with our Author. In his p. 42, he has a new Quarrel with Sir George Mackenzie. "Now, fays he, for him to cry out against the "Perjury of the ancient Scots, when they fell up-"on a Salvo which they thought fecur'd them " from the Imputation of Perjury, when he was " fo instrumental in obliging, by a Law, many to " perjure themselves, upon the highest Penalties, if " they did not, &c." Our Author has got the Word Perjury fo much in his Mouth, that he cannot forbear again and again repeating it. Sir George does not fo much as use the Word Perjury at all, but he fays, " That if the Scots swore Allegiance to Fergus Presby.

Fergus and his Posterity; consequently Fergus's "Son ought by Law to have succeeded, and not " his Brother, for his Brother was none of his Po-" fterity." And fo fay I; and this, as I noted before, is to me a convincing Proof, tho' there were nothing elfe, that this Oath mentioned by our Historians is a mere Fiction. Sir George says indeed, That the introducing of Uncles was an Innovation and a Subversion of the fundamental Law to whith the Scots had fworn. To be ingenuous in the Matter, Sir George did give too much Credit to H. Borce and our other later Historians : For I firmly believe that there was no Oath in the Cafe. and that whoever was our first King, the Succesfion went on by Right of Blood, in the common and natural Way receiv'd then, and generally followed ever fince in most Nations in the World; with this Difference only, that as we were a warlike Nation, and very often engaged in Broils with other People, the Picts, Britons, Saxons and Danes, it was thought fit that when the next in Blood was a Child or Minor, the nearest to him. who was of Age, should be their chief Ruler; and that they not loving to degrade him from that high Station, allow'd him to enjoy it during his Life. This at first might seem plausible, but afterwards was found to be attended with bad Confequences. As to Sir George's faying, that the introducing of Uncles was an Innovation and a Subversion of the fundamental Law, to which the Scots had fworn ? tho' the Expression may seem too strong, yet, if there was a formal Oath in the Case, as I am perfuaded there was none, I am fomething of his Mind. But he immediately corrects himself a little; for

for he adds, " That the old Law was not abro-" gated, but was in being by virtue of the first "Oath, appears very clearly by Buchanan himfelf, who confesses that upon the Death of "Durstus, a wicked Prince, it was debated whe-" ther his Son should not succeed, justa sacra-" mentum Fergusio prastitum, veteremque effe mo-" rem servandum, which acknowledgeth that the " Succession even in those Days was established, " by Law, by Oath, and by Custom." Here then, according to Sir George and all our later Historians (for the older ones, as I have often said, speak nothing of it) there was no Perjury in the Case. By that Oath (if ever such an Oath there was) the Scots, who best knew the Import of it, can be supposed to have intended no more, but that the Crown should go to the Posterity of that their first King; but not in such a strict hereditary Manner, as it did afterwards by the Law of Kenneth III.

But (says our Author) Sir George was instrumental in making that Law, which obliged many to perjure themselves. What that Law was, he has told us above, viz. that made Anno 1684, which ordered the Covenant to be renounced, and declared it High Treason for any to adhere to it. Sir George was certainly much in the wrong, for having a Hand in such a wicked Law, as forced People to renounce so sacred and inviolable an Oath . Tis true, the Swearers to that Covenant thought themselves thereby bound, to overturn the then Government, to kill the King and all who served him, and to throw off the Race of Stewarts as constant Enemies to God (d). And our Author feems to be much of their Opinion. Why then, that these Saints might not fallify that Oath, and involve themselves in the Guilt of Perjury, the King himfelf, his Members of Parliament, Officers of State. and all his other faithful Servants and Subjects, ought to have held up their Throats, and tamely to have facrificed all that is valuable among Men. rather than to be accessory to such a Crime! A Man swears that he will kill me, my Children and Family, if I will not put myself and all that I poffess into his Hands, to be ruled and managed by him as he pleases. What must I do? If I yield to his Desire, I am ruin'd or enslav'd. If I do not, but stand on my Defence, and oblige him, for my Security, to revoke his Oath, am I, notwithstanding, to be charged as guilty of a Crime, in caufing him to perjure himself? There were upwards of forty Jews that had bound themselves under a Curse, that they would neither eat nor drink till they had killed St. Paul, Acts xxiii. 12. Was his Sifter's Son, who first discovered their Purpose, St. Paul himself and the Centurion, and Claudius Lysias the chief Captain, to whom he reveal'd it, guilty of a Fault, in putting it out of the Power of these Jews to execute what they had fworn? Ay, but, our Author will fay, thefe Oaths were unlawful, but the two Covenants were not only most lawful, but the Thing sworn to in them a Duty incumbent on the Subscribers before. Well. let that be the Persuasion of that deluded People, as no doubt it was of the forty

<sup>(</sup>d) See Sir George Mackenzie's Vindication of King Charles II.'s Government, fol. Edit. p. 350.

Your above mentioned; must the Confeiences of a whole Nation be directed by theirs, and the fundamental Laws and Constitutions of it be quite overturn'd, and the Lives of Kings, Princes, Nobles, Judges, Ministers and all others, be cut off, that will not comply with fuch frantick Schemes and Opinions? Or, if they use the necessary Means for their own Security and Prefervation, of which that of renouncing these Covenants was evidently one, must they therefore be accused of causing those perjure themselves that renounced those Oaths, without which they could not otherwise be fafe? If this is a Principle of our Author, as his Words would feem to bear, God preferve all good Men from the Confequences of it; which are no other than what will justify all the Persecutions. Murders and Maffacres, that under a Pretence of Religion were ever executed in the World. It is faid of the wicked Catiline, that when he entred into a Conspiracy to seize upon the Government of Rome, to burn the City, to kill fuch of the Senators as would oppose him, to proscribe rich Men, and to possess himself and his Friends of their Wealth. and all the high Offices in the State; that to engage his Followers to be faithul to him, he caused them to take a kind of Sacrament upon it, obliging them to confirm the Oath they were to swear to him, by drinking of human Blood mixed with. Wine. Was not Cicero, the then Conful, much in the wrong in hindring the Execution of that accurfed Plot? What I have faid may be thought to bear hard upon our Covenanters, and am forry our Author has obliged me to mention them; but for the Truth of all, I appeal to the Histories of

those Times, and especially to their own Books. Naphthali, Lex Rex, The true Non-conformift, A Hind let loofe, and a great many other Treatifes and Pamphlets, all vindicating what they and their Fathers had done, or designed to do: Who, tho' they were the first Aggresfors, and had carried their Persecution to a greater Height than was (in a Protestant Country at least) ever exercised before, yet could not endure that their own Cannons should be turned against themselves, but make a hideous Outery on these Severities they met with from a Government, that had no other Way left of preserving itself. I will not justify the Hardships that were brought upon some of them; for who can answer for all the Mischiefs that happen in a Civil War, into which State thele unhappy People had, in the Pursuance of their wicked Covenants, brought themselves?

OUR Author next tells us, " That Kenneth III. " did abrogate the former Law of Succession, and " made a new Constitution contrary to it." What? did he likewise cause the Scots perjure. themselves, and break the Oath their Forefathers had made to the Heirs and Descendents of Fergus I.? So far from it, that he did more strongly. fix and confirm it, by confining the Succession, which was not fo regular before, to the next in Blood of a lawful Predecessor, in a strict hereditary Manner. Thus thought Buchanan himself, in that most eloquent Speech, which he puts in the Mouth of Bp. Kennedy, but really was the Author of himself. Lib. xii. Lex est (says he) à Kennetho, Rege non minus prudentia & consilio, quam belli gloria claro, ante quingentos amplius annos la-

ta, & ab omnibus regni Ordinibus accepta, & usu tot annorum, ad bunc usque diem, probata, ut, Rege pupillo, coëant Ordines, virumque prudentia & opibus primarium eligant, qui Regis tutelam gerat, eoque nondum regni potente res administret. Hæc lex etsi ad Kennethum velut auctorem referatur, mibi tamen non tam primus eam tuliffe videtur, quam vetustam Scotorum consuetudinem nova sanctione confirmasse. Here indeed Buchanan is speaking of a Regent in a King's Minority; but that suppofes, that not the Regent, but the Minor is really King. And tho' he had in lib. vii. exclaimed against this Law of Kenneth III. yet here he highly extols it, and fays it was not so much a new Law, as a Confirmation of the old Scotish Custom: And confequently looks upon those that came collaterally to the Throne, as Guardians and Tutors only to the true Heirs, who, on the Account of their Age, were not capable of exercising the Government themselves.

But, says our Author, This Constitution of King Kenneth was of no Continuance. This is utterly without Ground: For the two Usurpers, first Constantine, and then Grim (taking the Advantage of Malcolm, Kenneth's Son and true Heir of the Kingdom, his Absence in Cumberland) invaded the Throne: Yet they being both slain, Malcolm at last recovered his Right; and the Usurpations of Constantine and Grim were no more an Interruption of King Kenneth's Constitution, than were the Usurpations of Oliver and Richard Cromwells an Interruption of the hereditary Right of King Charles II.

OUR

Our Author, p. 43. gives us a Citation from Bp. Lefly, wherein he says, "That the whole "Nobility gave the Empire in Charge (so our Author translates his mandabat imperium) to Consideration the Son of Culenus." I have shewed above, p. 71. that what is there afferted by Lefly, is contrary to the Relation given of that Matter by all our other Historians, Buchanan himself not excepted. But our Author will rather follow a Papill Writer, when he seems to make for him, than his own beloved, and, in his Account, most authortick Author, when he makes, as here, directly against him.

But I cannot enough admire, how our Author should immediately so far forget himself, as to bring a Passage from Fordon, which quite overturns what he has said. He translates it, (but not very fairly) thus, "Hitherto, says that Author (e), "God be prais'd, the Posterity of this invincible "King [Malcolm II. the Son of Kenneth III.] did "happily succeed in Scotland, except that in some "corrupt Periods (f), Macbeth, and Lulach a "Fool, Donald Bane his (g) Brother, and Dun"can the Bastard Son of Malcolm Canmore, who "had no Right in Law, did actually usurp the "Government successively for a short Time." These last Words are wrong translated, and hardly make good Sense. The Original has it, mo-

(e) Lib. 4. cap. 42.

(f) Rather, through, [or during] some corrupt Intervals or Interruptions. Lat. per quadam corrupta intervalla.

<sup>(</sup>g) He should have said, the Brother, for he was not the Brother of Lulach, as our Author's Word his would import, but, of Malcolm Canmore.

dicis vicissim temporibus, sibi regnum, nullo juris titulo premisso, de facto usurpabant: And ought to be rendred, did actually, or de facto usurp to themselves the Government for a short Time, each in his Turn, without having any antecedent Title or Right thereto. That they did not usurp the Government successively, or immmediately one after another, as our Author's Translation imports, is plain from our History. For the Usurpations of Constantine and Grim, which interveen'd between Kenneth III, and his Son and true Heir Malcolm II. continued only eight Years. After which, according to his Father's Constitution, this Malcolm II. came to the Throne, and reign'd thirty Years. To him did succeed his Grandchild and Heir Duncan I. who reigned fix Years. Then came to the Throne Macbeth the Usurper, who held the Government seventeen Years. He being killed, those of his Faction caused his Son Lulach, firnamed the Fool, to be crown'd; but he being killed, within three Months, fays Buchanan, four, fays Fordon, thereafter Malcolm III. the true and lawful Heir of the Crown, came to the Exercise of his Government. Upon his Death, after he had reigned thirty fix Years, his lawful Sons being then in England, first Donald Bane his Brother, and then Duncan his natural Son ufurped the Throne for about feven Years between them. From which Time ever after the Crown descended in the true hereditary Line: Nulla lege deinceps (as Fordon (b) speaking of that of Kenneth III, expresses it) in hujus contrarium pravalente.

Our Author calls these Usurpations Interruptions of King Kenneth's Law: And so indeed they were with respect to the Exercise of the Government, but not to the Right of those, who ought by that Law to have enjoy'd it. Usurpations, as human Affairs go, are hardly avoidable; there scarce being any, even the most hereditary Kingdoms, in which they have not semetimes happened.

Mr. Logan next tells us, p. 44. " That after " fo well afferted a Narration of the Succession of " our Kings, contrary to the pretended heredita-" ry Right, it must be astonishing to meet with an "Act of Parliament, afferting the opposite Do-" Act 2. Parl. 3. Anno 1681." And then he gives us the Words of that monstrous Act, as he afterwards calls it. But why is he fo offended with this Act? For no other Reason, but because it is contrary to his fictitious Popular Scheme; and yet has nothing in it, but what is founded upon and perfectly agreeing with Kenneth III.'s Constitution, by which it is determined, that the Succession of our Kings should be according to the known Degrees of Proximity of Blood, as is expres'd in that Act. And had not all our Kings fucceeded according to that Rule, from the Days of K. Kenneth III. to that Time; excepting some Interruptions made by those whom he himself, after Fordon, calls Usurpers in the very preceeding Paragraph? He calls it an aftonishing Thing to meet with fuch an Act; but is it not much more aftonishing, to find our Author contradicting himself, when he brings in, as making for his Purpose, the Words of an Author, who bleffes God that the Po-(terity

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stheir lineal Order, had succeeded to the Throne, some sew Usurpers, who had no Title to it. only excepted? And is our Monarchy not hereditary, but elective for all that? Our Author is certainly hard put to it, when he can bring no Instances of elective Kings, but of those only, whom he himself acknowledges to have been Usurpers. And yet even in these, he will find it was not the free Suffrages of the People, but the Prevalency of a Faction that

brought them to the Throne.

Transity.

HE fays, ibid. " that Act past August 13th "1681, after we had wanted Parliaments for the "Space of nine Years." But our Author, as on fome other Occasions, is here also out in his Chronology. For that Parliament, in which the Duke of York was Commissioner, sat down on 28th July 1681. And we have two Acts that past in the preceeding Parliament, on 2d December 1672. The Interval then betwixt them is only 7 Years 8 Months, lacking 5 Days. But then, if we add, that this former Parliament, after some Adjournments, was not dissolved till 19th May 1674, we have only an Interval of 7 Years, 2 Months and 8 Days. But to pass this, it is well known what was the Cause of that Interruption of Parliaments with us, namely, the Struggle between King Charles II. and his Parliaments in England, about the famous Bill of Exclusion; the one contending for, and the other against the formerly received Rule of hereditary Succession. It is not my Business to enter upon the Merits of the Cause on either Side. This is certain, that his Majesty in the End prevailed, and that upon his Death the Duke





Duke of York his Brother, tho a Papist, peace ably succeeded him, and was owned as his true Heir by the Parliaments and the Body of the People of both Nations. How far his After-conduct did incapacitate him and his next Heirs of that Religion, from swaying the Sceptre among us, is extrinsick to the present Question. But I hope it will not give Offence, that I affert what was affirmed in the innumerable Addresses presented to both these Kings, that till then the Right to the Crown was held to be strictly and absolutely hereditary by the Laws and Constitutions of both Kingdoms.

As little is it my Business to enter into the Difpute, whether Kings derive their Power from God alone, or from the People. That Matter has been debated at large by very learned Men on both Sides; but as it feems still to be fub judice, I shall not meddle any further in the Controversy, than to observe, that either way the Controversy betwixt the Reverend Mr. Logan and me will have the fame Iffue. For whether kingly Power be derived from God Almighty mediately (as all at least acknowledge) and from the People immediately, or otherwise; this I think cannot be deny'd me, that the People can make fome Laws according to which that Power shall be fuccessively convey'd; of which one, and that a very natural one, may be, that it shall go by Proximity of Blood. If they can make no fuch Law, or, if made, their Posterity is not bound to observe it, then there can be no hereditary Government in the World, but, (as I suppose the Power of the People is every where the same) the next Generation may chop and change their Governments, and put them

to as many different Shapes as they please. This I see is our Author's avow'd Principle: But there is no Man that has Eyes, that cannot but also see, how wide a Door it opens to all Manner of Tumults, Disorders and Confusions, if the Bellua multorum capitum, the giddy headed Multitude should think fit to follow it.

THERE is another Thing that I will not let our Author go away with. " That Act, fays he, " p. 45. afferting that the Kings of Scotland de-" rived their Power from God Almighty alone, " is a Phrase not known in Scotland till the Resto-" ration." Tho' I could produce a great many Proofs that that Phrase was known and used in Scotland, and particularly by some of the Sovereigns of it, long before the Restoration, yet I shall content myself with two. The first is of our King Alexander III. and is so remarkable, that the Writer of the Chartulary of Dumfermline (i) has thought fit to record it, in these Words: Memorandum, quod anno gratia MCCLXXVIII. die Apostolorum Simonis & Juda, apud West-monasterium, Alexander Rex Scotie fecit bomagium Domino Edwardo Regi Anglia filio Regis Henrici, sub his verbis : Ego devenio hominem vestrum de terris quas de vobis teneo in regno Anglia, de quibus homagium vobis debeo, salvo regno meo. Tunc dixit Episcopus Norvicensis, Et salvum sit Regi Anglia, si jus babeat ad bomagium vestrum de regno. Gui Rex statim respondit, & aperte dicens, Ad homagium regni mei Scotia nullus jus habet, nisi solus Deus, nec tillud teneo nisi de solo Deo, &c" The other is of our

<sup>(</sup>i) This Book is in the Advocates Library, and has this Note,

Queen Mary, in Mr. Anderson's Collections (k), where, in the Conference at York, it is said in these Words; "The Queen of Scots Commissioners pro"tested solempney, that they intend on no wayis,
"that the Queenes Majestie their Soveraign should
"recognize herself to be subject to any Judge in
"Earth, in respect she is a free Princesse, having
"Imperial Crown given her of God, and acknow"ledgeth no other Superior." This is the Voice
of all our Kings, as well as Laws; and I would be
obliged to our Author, if he can give but one Instance, of any King or Queen, of our or any other
hereditary Kingdom, that ever spoke otherwise, or
said, that they held their Crown of, or were accountable for it to their People.

FROM this we see how little Ground our Author has to add, as he doth p. 45. " That this Af-" fertion of the Parliament is contrary to most " certain Facts; and Facts are such stiff Things " as cannot be discredited by any Authority what-" foever, not by an Act of Parliament; their fay-" ing it does not make it be." I wish our Author would pay that Regard to Facts, that are to be mentioned afterwards, which he pretends to do here. Facts, I acknowledge, are very stiff Things, and when well vouched, no honest Man will deny them. But are the Facts here produced of that kind? The very Reverse is true. All I can find of his Facts amounts to this, That the hereditary Succession of our Kings was interrupted by five or fix Usurpers; for such he himself owns them to have been. These Usurpers indeed could not have R 2 their

<sup>(</sup>k) Vol. iv. Part 2. p. 49.

their Power from God, any otherwise than permis fively, the same Way that Robbers and Pirates have theirs. And our Author, I hope, will not allow them to have had it from the People; or, if they had, it was not by a free Choice, but Con-firaint; and that he tells us, p. 34. is not binding. What is become then of our Author's Facts? He that feeks them may find them in the new Atlantis, for they were never produced in Scotland. Hehad told a little before, " That our Historians harmonfoully inform us that the Primores regni made our Kings, and when any of them be-" came Tyrants, they laid them alide, and " put others in their Room." He should have added, that they try'd, condemned, and put them to Death. But who gave the Primores regni that Power? Had not the whole Community, who, (according to our Author's Scheme) were as free as they, whether Pagan or Christian People, as good a Right as they had in the Election of their Kings? When they were in the fanciful State of Nature, and were all independent one of another, there were no Primi or Secundi among them. But it feems, that after the great original Charter was drawn up, by which loofe and vague Mortals formed themselves into Societies, by the free Suffrages of every Individual, rich and poor, great and small; there was a fecondary Contract entred into, by which the poorer fort devolved all their Power upon the Nobles, or Primores regni, and that so irrevokably, that their Posterity should never after retract it : But the Primores themselves, tho' often as great Tyrants as any of their Kings, were not to be accountable to these their Constituents,

who now, poor Creatures, were become their Inferiors, and for the most Part Slaves. Nay, these Primores had assumed to themselves such an absolute Authority and Sway, that though they had devolv'd their Power upon an hereditary Succession of Kings, they might not only punish the present Possessor, when they thought they deserved it, but also turn the Government into another Channel, if they judged it proper. I beg Pardon of my Author, if I have not given a fair Representation of his popular Scheme. Since I am, that this was the avow'd Doctrine and Practice of our Common-wealth's Men in King Charles I. or should I say rather in King Gromwell's Time.

But, how comes our Author to say that our Historians are barmonious in their Accounts of the Matter, since I have shew'd above, p. 32, that our most ancient and most creditable Writers, Fordon, Winton, and I think Major, say no such Thing, nor give us so much as one Instance of a King's

being deposed by the Primores regni?

does, he has another Argument that will (in his Conceit) carry all before it. For, says he, p. 46. "To confront the Duke of York and his Parliament, I will oppose to their Act, a Letter of the principal Nobility, &c. of the Nation anno 1320, to Pope John, wherein they assert Bruce's Right of Succession, Baliol's Proximity of Blood notwith withstanding." And then he goes on with a Translation of some Parts of that Letter, which he would have us to think make for him, tho' they make directly against him, as I have above proved at large, p. 16, &c. All that I shall here take Notice of is,

that he gives flatly the Lie to this very Letter, up on which he lays fo much Strefs. For, fays he, the Writers of it affert the Bruce's Right: And that indeed they do again and again in the frongeft Manner: But, (according to him, and the Pamphlet-writer he often quotes) that was false; for, fay they, what the Writers of that Letter call the Proximity of Blood, i. e. the Right, was in the Baliol. By the bye, a Letter that afferts a Falshood, seems a very improper Medium for overthrowing an Act of Parliament. Again, they translate divina dispositio the divine Providence. But where found they the Word dispositio used in that Sense? Divine Providence is no Rule of Action, all Actions good and bad being equally directed and over-ruled by it in the Great GoD's Government of the World. Divina dispositio here can fignify nothing elfe, but Almighty Gop's Order and Appointment, i. e. as I take it, that King Robert's Right was according to God's Law or Ordinance, or, in other Words, that he had a jus divinum to his Kingdom (1). That this is the true Signification of the Word, especially among the later Roman Writers, is observed by Henry Stephens in the last Edition of his Father's Thefaurus, where, among others, we have this Example, from an Epistle of the Emperor Aurelian, (m), Nunc tuum est officium, Arabiane jucundissime, elaborare, ne mea DISPOSITIONES

<sup>(1)</sup> With this agree the Words auctore Domino in the Declaration of the Clergy anno 1309, which our Author translates, by the Favour of Heaven, whereas, as I have shewed above, it should be rendred BY GOD'S AUTHORITY.

(m) Apud Vopisc. cap. 47.

in irritum veniant, i.e. That my ORDERS may not come to be disappointed. To which I will add another yet more pat, from the famous Words of S. Cyprian, where, condemning the Usurparion of his Presbyters upon the Power that belonged only to him their Bishop; he says (n), Adulterum est, sacrilegum est, impium est, quicquid bumano furore instituitur, ut DISPOSITIO DIVINA violetur. From what I have faid here and above, and I am fure I am well founded, it appears that this famous Letter is fo far from contradicting the Act of Parliament 1681, that it perfectly agrees with it. For, as in that Act our Kings are afferted to derive their Regal Power from God alone; so in this Letter it is affirmed, that King Robert's Title to the Crown was founded upon the divine Appointment, antecedent to the Peoples Consent or Affent, i. e. that he was their King jure divino. Our Author thinks to draw a mighty Support to the Scheme, from its being said in that Letter, That if King Robert should subject himself to the King of England, they would expel him, and make to themselves another King .- But I have shewed above, p. 14. that the Inferences he draws from these Words are good for nothing.

He observes next, p. 47. "That in the said "Act, Anno 1681, they say, That, if any at-

" tempt, or endeavour, to alter the Succession, they involve themselves in Perjury. But adds he,

"We want to know, where there is an Oath

" to be found, taken by the Nation or its Repre-

" fentatives, obliging them and their Successors

<sup>(</sup>n) Epift. 43. ex edit. Jo. Felli Episcopi Oxon. anno 1682.

"to maintain the lineal Succession." As to which all I shall say at present is, That this Parliament (which was as sovereign and as lawful a Parliament as ever was in Scotland) declare they thought

fo, and I am no further concerned,

To corroborate, as our Author fancies, what he had faid, he gives us a Manifesto of the Clergy of Scotland, Anno 1309, wherein, even as he, or rather Mr. Ander son translates it, they likewise asfert King Robert's Right, in as strong, and, if posfible, stronger Terms, as the Nobility, and others of the Laity, did afterwards in their Letter to the Pope. I have at large shew'd above, p. 18. that this makes as little for him, as the other. I shall only add, that the Words, they affumed, or, made bim their King, cannot fignify that they did originally give him the Right, but only testify their Approbation and Recognition of the Right which he anteriorly had. That this was their Meaning is obvious from this, that, if otherwise, as our Author would have it, they would flatly have contradicted themselves, when with the same Breath they tell us, That the Rights of his Father and Grandfather did still continue, and were in full Vigour uncorrupted in him. But that the Phrase of a People's MAKING to themselves a King may not be misconstrued, as if the King they thus made had no other Right, but what they, by their free Election and Choice, gave him; I shall give our Author fome Examples from Holy Writ, where that Phrase cannot possibly be so understood. Thus, from it we learn, that notwithstanding David was anointed by Samuel, and thereby authorized by GOD bimself immediately, to be King over all Hard of him en A Hrael,





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Ifrael, after the Death of Saul; yet we are told. 2 Sam. it. 4. That the Men of Judah came, after Saul's Death, and anointed David King over the House of Judah. And 2 Sam. v. 1-2. that after he had reigned seven Years and six Months over Fudah, during which Time Ishbosheth, Saul's Son. had reigned over the other Tribes; yet after he was flain, all the Tribes of Ifrael came to King David, and, tho' they told him, that the Lord had faid to him, that he should feed his People Israel, and be a Captain over Ifrael, yet their Elders came to him to Hebron, and David made a League with them before the Lord, and, tho' he was anointed before, they again anointed him King over Ifrael. Here we have a jure divino King, if ever one in the World was: and yet he could not obtain the full Exercise of the Government till he had the Consent of the far greater Part of his People. And will our Author, or any that is not a downright Infidel, affirm, that David had no Right but what the People gave him? The like Example we have of his Son and Successor Solomon, who, tho' he was. by the Appointment of God himself, anointed King in the Lifetime of his Father; yet we are told, I Chron. xxix. 22, that after David's Death, the People made Colomon King the Second Time, (which supposes that they had done it before) and anointed him unto the Lord, to be the chief Governor. Here we have the strong Word MADE, which is the same with our Author's creatus est, effectus est, and in this Manifesto of the Clergy, assumptus est in Regem. And dare he say, that Solomon derived all his Power from the People, and not from that anterior Right he had from God;

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when 'tis to this that Solomon himself attributes it, 1 Kings iii. 7. where he fays, and now, O Lord my God, Thou hast MADE thy Servant King instead of David my Father? Here we have two Makings, one of God, and another of the People; the first authoritative, the second declarative or approbative. It is also remarkable, that in the former Passage, he is said to be anointed to the Lord: which plainly imports, that he was the Lord's Anointed, and not the People's; and his Vicegerent, not their's; and accountable to him only, not to them. A third Instance I shall give, is of Joash, the Son of Abaziah, King of Judah; of whom it is faid, 2 Kings xi. 12. that the People MADE him King, and anointed him. And yet it is plain, that he was the true and righteous Heir by the Appointment of God himself, who had entailed the Kingdom of Judah upon the Posterity of David, till that Monarchy came to an End, in the Days of Nebuchadnezzar King of Babylon. See 2 Sam. vii. 12. 19. 1 Kings ii. 4 .- viii. 25 .- xi. 12. 34. 36. 38. - xv. 4. 2 Kings viii. 19. 1 Chron. xvii. 17. 2, Chron. vi. 16 .- xiii. 4 .- xxi. 7. and particularly-xxiii. 2. wherein Feboiadab the Highpriest, who was the prime Instrument of Foasb's Coming to the Throne, tells the People, Behold the King's Son Shall reign, as the Lord hath faid of the Sons of David. It is likewise said of several other Kings of Judah, that they were MADE by the People; as Ahaziah, 2 Chron. xxii. I. Uzziah, 2 Kings xiv. 21. and 2 Chron. xxvi. 1. and Fosiah, 2 Chron. xxxiii. 25. And it is very obfervable, that this last, tho' but 8 Years old, when he began to reign, and that his Father Amon, and his

his Grandfather Manaffeh, were the worst; yet he prov'd absolutely the best King that ever sat upon that Throne. What shall we say then? That these Kings had their Right from the People, when the facred Volumes affure us, that they had their Right established in a direct hereditary Succession, by no less Authority than that of God himself? In which likewise it is remarkable, that all these Kings, being in Number, from Solomon to Josiah fifteen, succeeded one another, from Father to Son, by Proximity of Blood, and (as is infinitely probable) by the Right of Primogeniture, (o) without so much as one of the collateral Line among them all, for the Space of 405 Years, reckoning from the Beginning of Solomon's to the End of Fosiah's Reign. After Fosiah indeed, the People made Fehoahaz his second Son King; but, for ought appears, contrary to God's Appointment: For, after three Months Reign, Pharaob Necho King of Egypt gave the Kingdom to his elder Brother Jehoiakim, which after he had enjoyed for eleven Years, Nebuchadnezzar carried him to Babylon, and Jehoiachin his Son became King, and after him, his Brother Zedekiah, with whom ended the Monarchy of Judah. All these Kings, except the three or four last, were of God's Appointment and Designation. As for the Kings of Israel, from Feroboam to Hosbea, let our Author take them to him, and bring them to the Throne what Way he pleases. If the People had the

<sup>(</sup>o) Thus it is said, 2 Chron. xxi. 3. that Jehoshaphat gave the Kingdom to Jehoram, because he was the first-born. And in Chap. xxii. 1. it is said, that upon the Death of this Jehoram, the Inhabitants of Jerusalem made Ahaziah his youngest Son King in his slead: For the Band of Men that came with the Arabians to the Camp, had sain all the eldest.

the chief Hand in their Advancement, they were very unlucky in their Choice; for there was not one good King among them all, nor any of them appointed by God but one, and he (tho' otherwise not much better than the rest) for punishing

the Wickness of s two Predecessors.

HAVING shewed that these two famous Deeds of our Nobility and Clergy are fo far from destroy. ing, that they establish the hereditary Right of our Kings, our Author thinks he has faln upon a new Proof which will effectually defeat it. It is a Paffage he brings from Lefly's History, (p) where he tells us, that Robert Bruce sent Ambassadors to the then King of France, for renewing the antient League between the two Nations, and that to the former Conditions this was added; " That if the " lawful Heir of either Kingdom was not known, for preventing all Contentions, he whom the Con-" ventions of the Nobility of both Nations, should " declare for, shall have the Government committed " to him." From this, fays our Author, " it is " plain, (q) that both Kings supposed that their "Right was defeafible, and therefore they pro-" vided in that Case; for if it shall fall out, that " the Heir, or next in Blood, cannot be known, " and there shall be Contentions, who has the " Proximity of Blood; it may possibly fall out, " that the wrong Person shall be declared Succes-" for, especially if the Nobility of both Nations " should differ in their Sentiments." Here we have a most ingenious Discovery! But we must confider the Thing more distinctly. And first, Lesty gives

<sup>(</sup>p) Pag. 236.

<sup>(9)</sup> Pag. 49.

gives a false and perplexed Account of the Affair, and I know not but our Author has, for that Reafon, chosen to represent it in his Words, rather than those of Buchanan, who in a few Words tells the Matter as it really was, (r) viz. " That if a-" ny Controverly should thereafter arise, concern-" ing him who ought to fucceed to the Kingdom " of Scotland; it should be determined by a Con-" vention of the Estates, and the King of France " should support him with his Authority, and " with his Arms too, if there was Need for it, " who should be by lawful Suffrages declared "King." Buchanan speaks nothing, and neither ought he, of a Controversy that might arise in the French Succession; and far less, that a Convention should be held of the Nobility of both Nations. H. Boece had mentioned the Thing before (s) much to the same Purpose, but not so justly as Buchanan has done. But 2dly, They are all mistaken, in faying that this new Article was added to the old League between Scotland and France by K. Robert Bruce; for in the Confederacy between him and Charles IV. of France, (which was concluded at Corbeil in April 1326) there is not any fuch Article. But in the Renewal of that Alliance betwixt Robert II. and Charles V. concluded in the Year 1371, we have that Article particularly exprest, much in the same Terms as Buchanan has related it. As to the Inference our Author makes, that, if the States of Scotland should happen to declare the wrong Person Successor, the hereditary Right would thereby be defeated. I answer that the

<sup>(</sup>r) Lib. 8. p. 149.

<sup>(</sup>s) Fol. 306.

Exercise of the Right would thereby indeed be interrupted: But the Right itself must still continue in the Person to whom it belonged, what ever Decision might be made to the contrary. Justice and Truth are immutable Things, and no Decisions, or Sentences of Men, can alter their Nature. What our Author supposes may possibly happen in the Case he mentions, (tho' that is extremely improbable) is no more than what may happen, and no doubt has oftentimes happened in private Cases that come before Courts of Judicature; in which, either by the Ignorance or Dishonesty of the Judge, or by forged Deeds or false Testimonies, Estates have been adjudged to them to whom they did not belong; and yet, this notwithstanding, the Right, in the Eyes of the great Judge of the World, still remains to them, from whom the Posfession was unjustly taken away; and no Sentence or Decree that may put others in the Possession, can ever give them a Right to it. Things are eternally what they are; Right, Right, and Wrong, Wrong; Truth, Truth, and Falshood, Falshood. As to these, the two Maxims in the Roman Law must unchangeably hold good, viz. Unicuique sua rei aterna austoritas esto: And, Quod initio vitiosum est, non potest tractu temporis convalescere. As among us poor Mortals, too many are wicked, and all very fallible, Acts of Injustice have too frequently happened, and will so happen so long as the World stands, and there is no Possibility of preventing it: Yet, I hope, none will fay, that the Wickedness or Mistakes of Men can alter the Nature of Things. Thus, if among the innumerable Estates, Honours, Dignities, and Offices heritably possespossessed in the World, the Wife of any one of the Owners should prove unfaithful to his Bed, or pawm a spurious Child upon him, or the Child is changed at Nursing, or that any other how, one that is not really descended of him, should come into the Possession, so as the Error or Cheat should never be found out (all which are as possible Cases as that put by our Author,) in such a Case the Right of the true Heir would thereby indeed become sopite, but not at all extinguished; no more than a Treasure hid in the Ground leaves off to be the Property of him that laid it there, tho' it should clandestinely be carried off, or the Place where it was laid never be discovered. Thus much for our Author's Possibilities.

Bur he being afraid, that the possible Case he puts would not answer his Purpose, proceeds next p. 49. to give us real Facts, and to shew us, as he expresses it, " That for a long Space of Time the " Succession of the Crown of Scotland was not by " Proximity of Blood, and that the next of Kin " was not much regarded in making of our Kings; " for the Succession went oft by the collateral "Line." And then he instances in Reutherus our 6th King, Thereus our 8th, Dardanus our 20th, Satrael the 26th, Donald I. the 27th, Nathalocus the 30th, Donald II. the 32d, Donald III. the 33d, Fincormachus the 35th, Romachus the 36th, Angusianus the 37th, and Fethelmachus the 38th. All which, according to our Author, and the Histories he follows, did fucceed in the collateral, and not in the direct Line: And yet, in the very next Paragraph, he gives them (and all others, as they were in that Period, before Fergus II.) up, as entirely

tirely fabulous. What does our Author mean by this? Does he think that the long List he has brought in here of twelve Kings that never existed, a good Argument for proving Interruptions in the

hereditary Succession?

WELL, but to mend this, he gives us another: List of real Kings, who did succeed collaterally; and, to make the Number as great as he could, among these he mentions five, whom he acknowledges to have been Usurpers. But have I not all along shew'd that these collateral Kings came to the Throne, according to the Establishment that had uniformly prevail'd, before the Constitution of Kenneth III. viz. That when the next Heir was a Child or Minor, the next in Blood to him who was of Age, had the Administration during his Life? And if this Rule was, according to the oldest and best of our Historians, generally followed, and always defign'd to be followed, in the Succesfion of our Kings, the Suffrages of the People had no more Share in their Advancement, during that Period, than they had in the following Period, after Kenneth III. The only Difference betwixt these Kings that came in collaterally by the former Settlement, and those that during a Minority had the Administration during the second Settlement, lay in this, that the former acted in their own Names, as Kings; and the later, in the Name of the Pupils or Minors, as Guardians and Regents; and that the one retain'd the Government during their Lives, but the other laid it down when the Pupils or Minors were of such Age as rendred them capable of taking the Reins into their own Hands. I will not fay, but that in fo long





long a Period, it might happen that some ambitious Men should step into the Throne, contrary to the Rules of that first Establishment. But if they did, we ought to look upon them as Usurpers, and not lawful Kings, no more than those that invaded it after the second Settlement.

HERE again our Author takes Occasion, p. 50. to run down the Antiquity of his own Nation, and thinks that by his cutting off forty of our Kings before Fergus II. he has got a fair Handle for giving a Wipe to " the Scots Facobites and the " young Chevalier, who boast of hereditary Suc-"cession, by a longer Race of Kings of Scotland, " than in any Kingdom in the known World:" And hopes, by what he has faid, to give a Check to fuch Boastings. I have acknowledged with him, that these Kings before Fergus II. are all fichi tious. But at the same time (as I said before) there is Room enough left, not for the Facobites only, but for all the Inhabitants of Scotland, to value themselves upon the Antiquity of the Race of their Kings after Fergus II. and that, tho' our Author should, with Father Innes, bring him a Century farther down. For I put it to him, (as he does to me upon other Occasions) to give us a Race of Kings, in any Nation of the known World, of the same Stock and Lineage, of so long Continuance, as our Nation can give of ours. As to the boasting, as he calls it, it was used, and very justly, by Millions of our People, many Ages before the Name of Facobite, or Chevalier young or old, was known. I shall give him but one Instance, instead of many, and that is from that famous Letter of the Nobility of Scotland to the Pope, anno 1320; on which

which our Author, tho' in vain, builds very much. In it, they having before told, that they had expelled the Britons, and destroyed the Piets. and preserved themselves a free and independent People, against all the Attacks made upon them by the Norvegians, Danes and English: they add these Words, In quorum regno centum & tresdecim Reges, de ipsorum regali prosapia, nullo alienigena interveniente, regnaverunt, i, e. . In "whose Kingdom one hundred and thirteen "Kings of their Royal Progeny, reign'd, with-" out the Intervention of one Alien or Stranger " amongst them." 'Tis true, they make the Number of their Kings too great, as was the Cufrom of most Nations in those Times. But if our Author will allow us those Kings from Fergus II. to the present Time, i.e. from the Year of Christ 500 or fo, in which that King, according to Father Innes, began his Reign; let him, as I said, fearch the Annals of all other Nations, and try if he can find so much as one Race of the same Family that have continued fo long as that of ours.

Our Author having in his Opinion perform'd fuch mighty Feats, tho' he will allow no other body to boast, yet in p. 51. he boasts loudly himself, and as it were exults upon it, "That what has been advanced by him is more than sufficient to demonstrate, that the Succession of our Kings was not always continued (continud in genere proximos) as Mr. Ruddiman afferts, by Proximity of Blood, the Succession having been inverted, by Usurpations or cross Elections, in every two or three Generations." But, that I may not be behind with our Author in boassing,

I appeal to every impartial Reader, whether I have not demonstrated, (as far as Matters of Fact are capable of Demonstration) that the Reverse of all he has advanced is true; and of consequence, that all his Demonstrations, as being founded upon Sand, or (which is worse) mere Air and Vapour,

must with them evanish into nothing.

By the bye I must take notice, that he mistakes the Signification of the Word continuo, which I use, as if I meant by it continually, whereas I use it in the Sense in which all good Latin Anthors do, and no otherwise, for statim or protinus, i.e. prefently or forthwith, the Words I make Use of in that same Passage. And is it not true that our Kings did succeed one after another perpetuo tenore, as I there express it, according to the Law of Kenneth III. which admitted of no Interruption? But our Author should remember, that I am always speaking of the Right of succeeding, which that Law gave to our Kings, and not of what might happen by the Wickedness of factious and ambitious Men. For indeed, if what thus happens should be regarded, neither his Law (it must be own'd) nor of any King whatfoever, no not these of the great King of all the World, without doing Violence to the unruly Wills of Men, can hinder Usurpations and unjust Invasions, no more than they can Theft, Murder, Adultery, or any other Crime. If our Author has no better Foundation for his Popular Scheme than fuch Events as these, and thinks that every thing that happens is just, provided they will answer his Purpose, then he may fing with the Poet,

## Hac mercede placent—

But whom ever other he may get to join with him, he'll excuse that I will have no Share with him in his Musick. He himself confesses that the Reigns of Constantine IV. Grim, Donald VII. and Duncan II. were Usurpations, i. e. all founded upon Injustice. Will he say that they were elected by the People? I do not fee how he can fay that, confiftently with his own Principle. For if all Authority flows from the People, and they cannot by any Promise or Vow, any Act or Law of theirs, tye up the Hands of the next Generation, from changing the Government, or fetting the Crown upon what Head they please, there could be no Usurpation in the Case: These four Kings were as lawful as the best of them, the People having (according to our Author) an unbounded Liberty to give it to whom they will'd. Or if he fay, that these Usurpers took upon themselves the Government, with the after-Confent and Approbation of the People; then he makes the People deeply accessory to a great Guilt, in accepting those for their Kings, who by a late Act, made with their almost universal Consent, were excluded from that Dignity. But I believe, that not the Body of the People, or even chief Nobility, (as he, after Lefly, falfly represents the Matter with respect to one of them) but a powerful Faction they had got together, advanc'd them to the Throne; and that the Body of the People were then as innocent of their Usurpations, as they were afterwards of the Murder of King Charles I. or the Insurrections raised in this Country against his Son Charles II. WHAT

What our Author means by cross Elections I know not, unless he understands by them Mob contra Mob, or two powerful Parties bandied against one another; and then indeed the longest Sword carries it: And as no prevailing Party will allow themselves to be in the wrong, they can easily make Acts justifying all they had done; as those Rebels did who wickedly fought against and

flew our King Fames III.

Our Author, in p. 53. observes, that some of our Kings were Bastards, and that I myself take notice in my Table that Gillus and Duncan II. were such. But I give no other Table than what was prefixt, in sormer Editions, to Buchanan's History; with which I meddled no farther, than to correct some Errors in point of Chronology, as he himself in the preceding Page owns. As to these two Bastards he mentions, it is to be noted that both of them, by our Historians, are reckoned Usurpers. The last of them he owns to have been such himself, a little before in this same p. 53. and the former is the sisteenth of those forty Kings, whom he, after Lloyd, Stilling sleet and Innes, reduces to a State of Non-entity.

P. 54. he fays, he is not satisfied with the Apology I make for Bastards. I make no Apology for them. They, as being absolutely innocent, need none. Their Fathers indeed (if the thing were capable of it) much need it; for Fornication, and much more Adultery, are certainly criminal by the Law of God, as well in Kings, Princes and Nobles, as in other Persons. All that I say (where, by the bye, I am not speaking of King Duncan II. but of Sibylla, Wife of our Alexander I. before he

was King, that she was a natural Daughter of Henry I. of England,) is, That the Name of a Bastard was not thought so reproachful a thing, in that and some following Ages, as it now is: And Mr. Rymer, in his first Letter to the Bishop of Carlifle, fays the same (1). This Mr. Logan thinks will not agree with what I fay in another Place, that Buchanan and those other Authors, who will have our Robert III. to have been a Bastard, do there. by bring a Difgrace not only on the Royal Family of Scotland, but also on the most illustrious Families of Europe, as making them to have descended from a Bastard. But wherein do I disagree with myself? Do I not distinguish the Times, by saying, that what was not thought a great Reproach in former Ages, is thought very reproachful now? What crown'd Head in Europe will not think it a Reproach, that he is not only descended of, but derives his Title from the Son of a Whore; that is, one who in the Eye of the Law, and as some of that Profession call him, is ararwo, and terra filius, i. e. has no Father, and is a Son of the Earth (u), and who, as he has no Title himself, can transmit none to his Posterity? As to Duncan II. there mention'd, (tho' he pretended to be a lawful Son of Malcolm III. as the Duke of Monmouth did long after, of Charles II.) he was, notwithstanding, really a Bastard, and consequently an Usurper. We know little of his Posterity (v); but we

<sup>(1)</sup> Pag. 9.

<sup>(</sup>u) Filius est quem nupria demonstrant, say the Lawyers, and no other.

<sup>(</sup>v) Sir James Dalrymple tells us in his Historical Collections, p. 169. that William, Son of this Duncan, was a great Man about

are fure our Kings are not descended of them. I mention likewife William I. of England, some times called the Conqueror, and fometimes the Boflard. But if it is true what is faid by some Historians, that his Father the Duke of Normandy did afterwards marry Arlette his Concubine, this William's Mother, without any interveening Marriage, that did, by the Civil and Canon Laws make him legitimated (av). But whatever Tache may be brought upon him, by his Illegitimacy! our Monarchs, as Kings of Scotland, derive no Right from him; tho' as Kings of England, they do. There is one Thing however, I cannot but approve in the English, that their Laws allow not any Child to become legitimate, by an After marriage, who was begotten before it: And if the Regiam majestatem be really ours, we of old fold lowed the same Rule, and I should not be forry the we did fo ftill now and short onw ool

PAGE 55. our Author would have it, "That fome of our Kings did not succeed, by an here ditary Right, but were raised to the Royal Disgrity; because of their remarkable Qualifications, and eminent Virtues." But why does he talk of hereditary Right, since if all of them, good, bad and indifferent, were (according to our Author)

which King David Would not have allow'd, had Duntage been a lawful, as certainly he was the elder, Son of Malcolm Canmore.

(w) This is certain, that William the Conqueror was begotten when his Parents were in an unmarried State, and that
Robert the Father never had any other Wife: Which maken
his Case very different from that of our Robert III, as it is
represented by our Authors.

thor) raised to the Royal Dignity, solely by the Suffrages of the People, there was no bereditary Right in any of them? And what was it that moved the People, for the Nobles that represented them, sometimes to regard bereditary Right, and sometimes (and,) according to our Author oftner) not? There was no Difference of Religion, (whatever that was, which might incline them to change their general Rule, and make them prefer one more remote, to another nearer in Blood to the Predecessor. And, before their Election, it was not eafy to forefee, what King the Successor would prove; it having been often found by Experience, both in this and other Kingdoms, that several, who in private Life behaved very commendably; yet, as Sceptres carry great Temptations along with them, have, when exalted to that high Station, degenerated into cruel and barbarous Tyrants. But let us see who these Kings were, that without Regard to the hereditary Right, were advanced to the Throne, purely on the Account of their emiment Virtues. The first our Author names is Etfin, the Son of Eugenius VII, and for him he wouches Lefly, who fays of him, p. 159, that by the publick Shouting of all, he was appointed King, being wonderfully accomplished with all the Ornaments. of Virtue. It is pleasant to see how our Author dances from one Historian to another, and picks out of them feverally what he thinks will make most for his Purpose. For here he takes up with Lefly, a Popish Writer (as he has oftner than once, done before,) and leaves Buchanan his Favourite, who tells the Story in a much different Manner. For all that he fays is, that in the Year of God svoding A vino vd bom 730,

720. Etfin the Son of Eugene VII. took upon him the Government. And all he fays of his Virtues is. that her imitating the two former Kings, kept his People in great Tranquillity, during the 21 Years in which he reigned. But neither does Lefly fav. what our Author would have him, that this Etfin was advanced to the Tbrone, solely, upon the Account of his eminent Virtues, in Derogation to the Right of another. He only fays, that be was declared King This Rex defignatur can mean no more with the joyful Acclamations of all the People. He then adds, that he was endued with great Virtues; but does not fay, that thele were the Caufes of his Promotion. Whether he was a collateral or guardian King, or otherwise, cannot easily be determined. It would feem at least, even by what our Author relates of him, that, upon the Death of Eugenius his Father, he was a Minor , for, fays be, Eugenius dying recommended Mordacus, who was the Son of his elder Brother and immediate Predecessor Amberkeleth, (who was, according to our later Historians, a vitious Prince) to be King: Which certainly he would not have done, had his own Son Etfin been the true Heir, and of Age fit for Government; especially if he was fuch a Prince as Lefly represents him. And it would feem, that Fergus III, the Son of this King Etfin, was, upon the Account of his Minority, postponed to Eugenius VIII. the Son of Mordathat ever Lover thinks his . 313:

Our Author's second Example (in which he is yet more unlucky than in the former) is that of King Achaius; who, they he was singularly endued with all Princely Virtues yet did not (as our Author

ther observes) come to the Crown, till Eugenius VIII. Forgus III. and Solvathius had reigned before him: Which is not conceivable unless he was under Age, during the whole Reigns of the two first of those Kings (which were but three Years each) and some of the first Years of the third. Lefly speaks Nonsense, if he means by these Words, dignus est judicatus, qui Scotie sceptra moderaretur, that he was railed to the Throne, contrary to the ordinary Law of Succession, that had always obtained in Scotland to that Time, and did obtain some Ages after. Buchanan, who was otherwise keen enough for Popular Elections, fays no fuch Thing of him, but finply, Huic (i.e. Solvethio) fucceffir Achaius filius Etfinia All therefore that Lefty's Words can fignify, is that, according to the common Elogiums given to some, and these not always the best of Kings, He was worthy of the Grown be wore, or, Had be not been born to a Crown, be was worthy of one. But greater or leffer Worthiness are not to be regarded in hereditary Kingdoms, and is but seldom observed in those that are elective. The Morto that the Pamphlet-writer gives to his Title Page from Salluft, Imperium transfertur for transferendum est ad optimum quemque à minus bono, looks as if he were for no Kings, but fuch as were most worthy of being so, upon the Account of their personal Virtues; and some are of Opinion, that our Author had fuch Views. But then, as it is faid, that every Lover thinks his own Mistress the fairest, so every Elector will think his Man the wifest and fittest. And I know not, but at last, as Men are too apt to overvalue their own Judgment, and to disparage that of others, when

when Votes go not to their Mind, they will infilt on Mr. Andrew Melvin's Rule, that, suffragia sunt ponderanda, non numeranda. Is it not infinitely better to have one fixt and uniform Rule of Succession in Kingdoms, than to leave all to the Caprice of a giddy Multitude, who for the most part, in their Elections of all Kinds, are led on by the ambitious Views and partial Interests of designing Men? If this is our Author's Scheme of Government, much Good may it do him; but un-

happy is the Nation that follows it.

Page 55. & segg. Our Author entertains us with a long Discourse about the Government of Women, or Gunarchy, (tho' he should rather have faid Gynarchy) and thinks it a Bar against hereditary Right, if Females are excluded. And yet, which is something strange, tho' he himself joins with Mr. Know and Buchanan, in passing a Bill of Exclusion against Female Government, he mentions with great Applause several Queens and Princesses, who had exercifed fovereign Power and Dominion over their own People. However much the Females. whom our Author teaches and converses with, may be taken with his other Doctrines, yet I am fure the fair Sex in general will not relish, or think themselves obliged to him for this. However, the Reason why he is against the Government of that Sex, is very well known, namely the inveterate Hatred of him and his Party against our Queen Mary and her Mother; whom they deposed from their Government, and at first contrived, and still adhere to a thousand Fashoods, which they incesfantly vent, to justify themselves for so doing. As to the Question itself, I shall shew afterwards, that

that the Matter we are now upon, is not in the least concerned in it; and therefore shall meddle with it no farther, than only to observe what our Author says of Caractacus (whom our later Historians reckon one of our Kings,) and of his Daughter, who was excluded from the Government. Our Author would do well to remember, that he is the 18th of those 39, or (as he reckons) 40 Kings, whom he with Lloyd, Stilling sleet and Innes, cut off from the Royal Line. Besides, this Daughter of his, according to H. Boece, (fol. 49.) whom our Author here follows, was always sickly and unfit for Marriage; and therefore, whatever Claim she might otherwise make, she is to be considered as

having dropt all her Pretensions.

THE last Argument our Author brings for an Example, that the hereditary Succession of our Kings has been fometimes interrupted, is the only one (for I will diffemble nothing) that feems to have some Weight in it. It is the Settlement made of the Crown, in a Convention of the Estates held at Air, anno 1315. Wherein, King Robert I.'s Daughter Marjory is past by, and the Crown (failing Male-issue of the King's own Body) is appointed to descend to his Brother Prince Edward, and his Heirs Male. But here our Author omits to tell us, that the Act bears, that it was with the particular Consent of this Marjory, (who is therein expresly called her Father's apparent Heir;) without which it was thought, that such an Act could not lawfully be made. Besides, it is to be considered, that, as the Act itself infinuates, the Kingdom was then engaged in a most dreadful War, against a most powerful and far superior Enemy, and that the Rights and Liberties of the Nations were then at stake. In such a Juncture as this, it became necessary, that a brave Man and expert in War, such as Prince Edward singularly was, should have the Government put into his Hands. It ought likewise to be considered, that Lady Marjory was then unmarried; at least we are sure, that she had no Heirs of her Body till a Year on two thereafter.

Our Author tells us, ibid. that this Act (which he calls a Declaration) was afterwards confirm'd by an Act of Parliament of the fame King Robert, anno 1318; and fays, that by this Entail, Marjory, King Robert's Daughter, was excluded. This is so far from being true, that, on the contrary, both King Robert's Brother Prince Edward, and Daughter Lady Marjory were dead near two Years before: Which fad Events gave occasion to this new Entail, by which it is provided, That failing Heirs-male of King Robert's Body, his Grandson Robert Stewart by the same Marjory (tho' then but an Infant not two Years of Age) Should succeed him; and that if the said Robert Stewart should, at the Death of his Grandfather King Robert, be under Age, his Uncle Thomas Randolph Earl of Murray, and, failing him, James Lord Douglas, Should be his Tutors and Curators, as well as Governors of the whole People and Kingdom, till be was able to rule them himself.

In our Author's last Paragraph upon this Head, he says, he knows no Female that ever bad the so-vereign Power of this Kingdom but Queen Mary; and surely, adds he, her Reign was not for the Interest of it. As to his Railings against that excellent

lent Princels, I shall say nothing at present, the Thing having become so habitual to him and his Party, that there is no curing of it. However, I will shew him another Female, to whom the Sovereignty of Scotland, the' she never came to the Exercise of it, did belong, viz. King Alexander III's Grand-daughter Margaret, commonly cal-led the MAIDEN of Norway. Buchanan himself (x) calls her lawful Heiress of the Kingdom, and gives her the Name of QUEEN: And the is frequently fo called in the Transactions between Edward I. of England, and the States of Scotland, concerning her being married to that King's Son. She outlived her Grandfather four or five Years, during which Time fix Regents govern'd the Kingdom in her Name. And there is the same Reason for ranking her among the Sovereigns of Scotland, as of Edward V. among those of England; the' probably he was not so old as the, nor outlived his Predecessor so long as she

I Have now got through the First Part of our Author's Performance, and am come to the Second, where we have a Scene open'd, the like to which, I firmly believe, never was feen or heard of in the World before. It is wholly taken up concerning the Legitimacy of our Robert III. whom he is at infinite Pains to prove a Bastard, and to disprove all the Documents that have been brought to the contrary. I am heartily forry that

terest of it. The to his italians desint of

the Rev. Mr. Logar, a Minister of the Gospel of Truth, and for whom I otherwise have a Regard; should take upon him to disprove a Matter of Fact; the Truth of which is so clear and so manisest; that there is no withstanding it; unless we will become absolute Scepticks; and deny there is Certainty to be had of any thing that we have not seen

with our own Eyes, in the whole World. " 1841

THE Matter is this: The Continuator of For. don's History, whether Walter Bower or Bowmaker, Abbot of Inchcolm, or Patrick Ruffel, a Monk of the Caribufian Order, or Magnus Macculloch, a Monk of Scoon; for all the three are faid to have been the Authors or Compilers of that Continuation: (It is no matter which of them. for they all agree in that, and almost in every thing else:) These, I say, or rather the first of them (for the rest are little other than Transcribers) relates, " That our Robert III. formerly 15 named Fobn Stewart, was with his two Brothers, Robert and Alexander, begotten in Con-" cubinage, betwixt their Father Robert II. then Lord Steward of Scotland, and Elizabeth Moor. or Mure, Daughter of Sir Adam Moor of Row. of allan, Knight (y). That afterwards this Robert II. before he was King, took to Wife Eubeme Rofs, Daughter of Hugh Earl of Rofs, by whom he had two Sons, and at least one Daughter. That he having succeeded his Uncle big Astrocate to his Whiely Charles I.

<sup>(</sup>y) There was another Son of theirs, viz. Walter, next afaer John, who having married Isabel, Heires of the Earldom of Fife, thereby obtain'd that Title: But he having died long before, probably about the Year 1357, is not mentioned by our Historians,

David II. and his lawful Wife Eupheme Rolls by his Affection he bore to his old Conculs bine Elizabeth Moor, or to the Children he had by her, took her for his fecond Wife; and that by that Marriage her Children, who till then were all Bastards, were now legitimated, and that the eldest of them succeeded his Father in the Throne; from whom all the Kings of Scotland are lineally descended to this present.

This is is the Story, as told by the first Author of the Continuation of Fordon; and taken from him by implicite Faith, by those that followed after. particularly by H. Boece, To. Lefly, Geo. Bucha nan; and, I believe, also by 70. Major, (tho) Messis. Sage and Gillan deny it) and likewise by all our other Historians, down to near the Death of our King Charles II. And no wonder that they are therein followed by feveral Writers of other Countries. But that the Bulk of this Narrative is fabulous and without Foundation, has been demonstrated by several eminent and worthy Perfons, conversant in the Antiquities and Records of four Nation, to the Conviction, one would have thought, of all fober and ingenuous Men. The first Discoverer of the Falshood was Sir Lewis Stewart, one of the most famous Lawyers, fays Sir George Mackenzie of him (z), we ever bad, and Lord Advocate to his Majesty Charles I. He communicated this his Discovery to that King when in Scotland anno 1641: But the Troubles that afterebraw or who having married Meter Live the Endom

<sup>(2)</sup> Right of the Succession defended. Lond. Edit. p. 192

wards enfued, and the various Turns and Vicifitudes of Affairs in this Kingdom, made that Matter to be little heeded, till Sir George Mackenzie, his Majesty King Charles II's Advocate for Scotland, having fallen upon a Paper of Sir Lewis Stewart's, did in a small Treatife, subjoin'd to his Jus Regium, give a short Account of the Discovery made by him, and the Charters on which it was founded; to which he adds some other Documents of his own. Afterwards Mr. Lewis Innes, Principal of the Saatish College at Paris, found among the Archives of that College a notable Charter to the same Purpose, dated at Perth 12th January 1264; and having got the Authenticity of it attested by some of the best Antiquaries in France, by an Instrument under their Hands and Seals at St. Germans, 26th May 1694, he published it in the following Year 1695; together with other two Charters, one of the same Robert when King, and another of his Son John, then Lord High Steward (thereafter King Robert III.) of Scotland, all demonstrating the same thing. the methodizing of these Discoveries made by others, and the Addition of some new ones made by himself, is owing to the Industry of the Right Honourable, and truly learned, George Viscount of Tarbat, then Lord Register of Scotland, afterwards Earl of Cromarty, in a Treatife first published by him Anno 1695, in 4to, and again Anno 1713, in 8vo. To the same Purpose were published, by way of Letter to Dr. Nicolson Bishop of Carlifle, several Documents taken from the publick Records, in the Tower of London and Archives at Westminster, by Thomas Rymer, her Majesty prought

Majesty Queen Anne's Historiographer for England, Anno 1702, all concurring with those brought by the Earl of Cromarty. This Matter has been further illustrated and improved by the late worthy Mr. John Sage, in his Preface to William Drummond of Hawthornden's Works, Anno 1711; and by Father Richard Hay of Drumboot, in a Treatise of his, entituled, A Vindication of Elizabeth More, &c., published Anno 1723: Not to mention what is said of it by Sir James Dalrymple, Mr. George Crawford, and Dr. Abercromby; and also by Dr. Robert Brady and Joshua Barnes, English Historians, &c.

FROM all which, in a direct Contradiction to all our Historians, it is as clear as the Light at Noonday, 1. That Elizabeth More was Robert II.'s first Wife. 2. That she was dead many Years before he was King. 3. That Eupheme Ross, his second Wife, did live many Years after he was King. And 4. That John (afterwards Robert III.) was reckoned and avowed the first begotten and Heir of Robert his Father, by his own Grand-uncle David II. and all the People of Scotland, as also by Edward III. of England, and some of his great Men; and that mostly some Years before his Father's Accession to the Throne.

AND yet all these Things notwithstanding, the Rev. Mr. Logan, sancying that he could thereby defeat the hereditary Right, which I had asserted to belong to the Kings of Scotland, has undertaken (who could have imagined it?) to destroy the Credit and Faith of these original Documents, by affirming that they are all either salse, forged and counterseit, or do not prove the Things they are

brought

brought for; and that, in opposition to them, the Relations given by our Historians of the Bastardy of Robert III. are the true Matters of Fact, and which, if we will believe him, we ought only to rely on. What can Mr. Ruddiman fay or do after this? Or what could these worthy Persons, (with whom Mr. Logan has done him the Honour to join him in the same Class) were they alive, say or do with our Author? I have heard it faid that his Book is unanswerable; and indeed, in a certain Sense, that Part at least, which takes up more than two Thirds of it, is truly fo. For who ever went about to prove first Principles, that a Part is not the Whole, that a Circle is not a Square, that a Prism is not a Cylinder, that two and three make five, and the like? 'Tis true, these Principles are mathematical; but there are other natural and historical Principles, that are as certain, and as clearly evident, with all rational Men, as thefe. And fuch are the Vouchers and Documents I have mentioned, many of which I have feen with my own Eyes, which in their own way demonstrate the Falshood of what is related by our Historians, concerning the Illegitimacy of our Robert III. For if all these Deeds and Instruments, yet extant, some indeed in private Hands, but most of them in the publick Archives of this and our neighbouring Kingdom, (not to speak of those in France) are all false and spurious, then we can be fure of no Fact that happen'd in the World before our Time, nor even of those in our Time, if we our selves have not seen them. There were no fuch Men as Alexander the Great, or Julius Cafar; no William the Conqueror, or Robert the Bruce; and, to come lower down, X 2

down, no National Covenant, or Solemn League, no Usurpations, no Restorations, no Revolutions in the two Kingdoms. Nay, to go one Step farther, we not only lose those thirty nine Kings before Fergus II. but all the rest ever since; for I believe our Author never saw any of them. For we have no better or clearer Evidence, that such Persons existed, or such Things were done, than those Charters give us of Robert III.'s Legitimacy. If the latter are all false and counterfeit, so are all that are recorded of the former, nothing else but old Wives Fables, Mid-night Dreams and Fairy Tales; the one having no better Foundation than the other.

YES, but have there not been many counterfeit Inftruments, Coins and Inscriptions? No doubt there have; as there have been also many counterfeit Gospels, Epistles, and other Writings, both facred and prophane. But will it therefore follow, that there are no true ones, and fuch as we can with Certainty depend on? If not, in chaos antiquum confundimur; the World has been in a perpetual Delufion, and Hoc unum scio, me nibil scire, must be the universal Motto for all Mankind. I hope our Author has not arrived to that Height of Scepticism. On the contrary, I suspect that too much Credulity is his Fault; or that he is liable to that Weakness which too many in the World fuffer themselves to be led away with, of believing all Things that make for them, but as little as they possibly can of what makes against them.

WELL, but are there not some certain Marks and Characteristicks, by which true Writs can be distinguished from those that are false? Yes, undoubtedly

doubtedly there are; and that these Writs, which Mr. Logan condemns as false, have all those Marks of Authenticity and Genuineness that any Writ ever had or can have, is what I do and will always maintain. I have, as I faid, feen many of them my felf, and I folemnly declare, before Gop and the World, that I did fee nothing in them that could give the least Ground for suspecting the Truth and Genuineness of any one of them. By the little Knowledge I have of ancient Writs, they perfectly agree with the Diction and Phrases, the Customs and Manners, the Hand-writing and Chararacters, of the Times they are said to be wrote in. And what can any Man, that has not quite abandon'd his rational Faculties, demand more? But they are, moreover, most of them laid up in the publick Repositories of this Nation, and are the same by which the Honours and Estates of the greatest Men in it are secured and ascertained to them, and were appointed for that very End. Befides, if they were forged, it must have been done, either at or after that Time. Not at it: for they are, for the most part, the Records of Grants, or Confirmation of Lands, made by two of our then Kings, David II. and Robert II. and are bound up in Volumes, and closely inserted one after another. If they then are forged, so are all the rest in these Volumes; unless we can suppose, that those who had the Trust of transcribing and keeping them, would with the Hazard of their Lives (for that upon Discovery would have been their Punishment) venture to foist in false Deeds among those that were genuine; especially as they were, and are, kept in publick Places, to which

every Man had Access, and these that lived at that Time could not fail to discover the Forgery, if there was any. As little could they be forged afterwards; for that must suppose that the genuine Deeds of those two Kings were lost or destroyed, and that these forged ones (for we have no other) had been made up in their Place, by those who had the Trust of them. He that can suppose this may suppose any thing, and is not to be talk'd or reason'd with. I may add, how sacred the publick Records and Archives of all civiliz'd Nations have been held in all Ages, and what Recourse is had to them upon all Occasions. If they are not to be trusted, why were they appointed to be kept, when they could not answer the End they were May which

defign'd for?

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Bur suppose we should allow these Scotist Charters to have been all forged, what can our Author fay for those in England? That People, who were generally, and then particularly, at Enmity with us, could have no Delign in forging Charters in favours of Robert III.'s Legitimacy. We may rather think, that if they were to forge Charters of their own Kings (which I am well affured they never did) they would have inferted fome Things in them that tended to make our Robert III. a Bastard; and that, they thus making his Title disputable, might raise up a Competitor for the Crown against him. They had indeed trumped up some Charters of our Kings, as acknowledging themselves Vassals of England; the Forgery of every one of which, Mr. Anderson has clearly detected: But never yet was it heard of, that a forged Deed of an English, or indeed of any other King, was allow'd a Place among their own Archives.

As for those Charters published by Mr. Innes, in France, the Genuineness of them is solemnly attested by the greatest Antiquaries, that ever that or any other Nation produced. Particularly one of them, Father Mabillon, has published a most noble and learned Work, De re diplomatica, the very Subject we are upon; in which he has laid down such excellent Rules for distinguishing true from false Charters, that hardly any conversant in that kind of Study can be at a loss to know which

are, and which are not genuine.

HAVING thus demonstrated the Authentical ness and Reality of those Charters, which confirm the Legitimacy of our Robert III. tho' that of any one of them would fufficiently do the Bufiness; I need not fay any more to confute what our Reverend Author has advanced to the contrary. For if any one, much more if so great a Number of them, yet extant in the publick Repositories of three different Kingdoms, are true, then all that he, or any other in the whole World, have faid or can fay to the contrary, must certainly and necesfarily be false; and consequently our Robert III. was not a Baftard, but the lawful Son of his Father Robert II. and the Blot cast upon his Birth by our Historians, tho' they were ten thousand times more than they are, is an arrant Fiction and Untruth. Q. E. D.

But because our Author would readily take it amis, if I should break up with him so abruptly, I shall proceed as briefly as the Matter will allow, to consider what our Author advances to support the Credit of our Historians, and to overthrow that of the above-mentioned Charters, with respect to the Affair now before us. And,

FIRST, after having set down the Annotation I make on the Passage of Buchanan relating to that Matter, both in Latin and English, he says, that Islignatize our Historians as Liars. I do not say directly, that they are Liars, but that what they say is a mere Figment and a Heap of Falsboods (or, if he will, Lies, whoever first made them) ill, put together. But I must now tell him further,

is by the best Authors often used for a Falshood or Untruth; as well as for a Lie. This I could prove (if there were occasion for it) by many Instances; and I know no other Latin abstract Noun, for both; but that one.

2. I must tell him, that whoever applies himfelf to write a History, ought to be at due Pains, for his being informed of the Truth of what he relates; and if he grofly neglects that, he makes very near Approaches to his being a Speaker or Writer of Lies. This has been the Fault of too many Historians of all Nations, and of few more than our H. Boece and Buchanan. The former of these has, in the most ancient Part of our History, given us a Romance instead of true Facts, and in more modern Times has fallen into many Errors, which he might in a great measure have avoided, had he used the Pains he ought for better Information: As to Buchanan, had he consulted our publick Records, or other Vouchers proper for his Purpose, he would not have committed so many Blunders, as he has done almost in every Page, in the

the History of our Queen Many And its could not well be otherwise, when he took his Information (as Sir James Melvil acquaints us) from the idle, and, for the most part, malicious Reports of those about him, who were Enemies to that excellent Queen. But I will yet go further: Had our Historians but duly considered the Writings of those before them, whom they heedlessly follow, and compar'd what they say in different Places together, they could not but have seen that what they wrote of our Robert III. could not be true. For,

2. THE first Broacher of that Story, concerning Robert II.'s two Wives, manifestly contradicts himself; and whoever does so, is certainly a Liar. For in one Place he fays, that Robert II, was canonically married to Elizabeth More anno 1249; and in another; that they were not married till the third Year of his Reign, i. e. anno 1379 or 1374. Again, he fays in one Place, that Queen Eupheme Ross died in that third Year, i.e. 1973 or 1974; and yet in another Place he makes her not to have died till the Year 1987, i. e. thirteen Years after. Again; in all the Copies I have feen of Fordon is inferted that Charter of King David II. anno 1270 or 1271, allowing Bilbops to dispose of their Moveables by Testament; in which John then Earl of Carriok, the Son of Robert II. then Earl of Strathern, is a Witness, and exprestly designed his Primegenitus & Heres; which he could not possibly be, had his Mother been only his Father's Concubine, and not married to him till the third Wear of this Reign, anno 1373 or 1374, i. e. three or four Years thereafter, or fixteen or feventeen Years after the Date of that Charter, if Queen Euphame bed larroduction to Laruta Inden's Works, p. 294,

died not till the 1387. Now, in all the Copies I have feen of Fordon, and these are not a few, are exprestly fet down all these Things I have said, tho' they are manifestly inconsistent with one andther; And ought not our Historians, especially Boere and Buchanan, who certainly faw and read them, to have observed these Contradictions? And, if they observed them, ought they not to have chosen that Side which was most probable, and not that, which (as I shall shew afterwards) was almost impossible to be true? Boece besides is guilty of a grofs Prevarication: For, whereas in the very Coby of Fordon, which he made use of, and from which Mr. Hearne publish'd his Edition (a), we have these Words, Anno Domini Mccelxxxvii. obiit Dominus Walterus de Wardelaw, Episcopus Glasquensis, Gardinalis & Legatus: Quo etiam anno obiit Domina Eufemia filia nobilis & patentis Domini Hugonis Comitis Roffensis, Regina Scotia: Boece, that he might not contradict himself, in-Stead thereof, has (b) Inter bac (i. e. about the fame Year 1287) Elizabeth Scotorum Regina moritur, substituting Elizabeth for Eupheme. Mr. Sage (c) likewise observes, that Boece tells a Story of a Marriage of one of Robert II.'s Daughters. before he was King, to the Earl of March's Brother John, afterwards Earl of Murray, which cannot confift with what that Author relates concerning that King's Marriages.

AFTER what I have faid, I leave it to the Rev. Author's own Ingenuity, to determine whether I had Agrain the three or the

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<sup>(</sup>a) Vol. 4. p. 1071. (b) Fol. 331. A marked half to stall od walter

<sup>(</sup>c) Introduction to Hawthornden's Works, p. 297

not good Reason to call the Account given of King Robert II.'s two Marriages, by the first Broacher of it, whether Ruffel, Bowmaker, Macculloub, or any other, mendaciorum congeries, a Heaptof Lies, in the world Acceptation of the Word; fince hed whoever he was, groffy and palpably contradicts himself, which none but a Lian willodo. d As to Boece and Buchanan, fince they faw, vat least might and ought to have feen, what would have fet them right, and did it not, I do not fee how they can be thought innocent. As to the rest of our Historians, of whom I say that they did improvide fequi, heedlesty or inadvertently, i.e. without due. Examination, follow these their Leaders, the thing is certainly true; and let our Author pronounce of them as he pleases. The English, or other for neign Writers, as they had no other Guides to dis rect them but our Historians, cannot be blamed for treading in their Path; thos fometimes they do not so much as that, but (as I shall shew afterwards) fall into new Errors of their own 1000 1102

Our Author thinks, that after I have faid that our other Writers did heedlesly follow the first Broacher or Contriver of that Fable, I do not speak consistently, when I add, I That they did all that I in them day to blacken these Families. I say simply, quod in ipsis erat, i.e. as far as they would have us to believe them in that Matter. Every Historian would have the World take for Truth what he relates. But if he either wilfully, or by supine Negligence, or even Inadvertency, delivers things that are not true, he imposes upon the World; and as far as he would have his History to be trusted, so far he goes to deceive his Readers. I do

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not lav, that thefe fetond or third Handwriters did intend it (tho' the first for the Reasons above) cannot be excused;) but that, the they should happen to be mistaken themselves and did never become lenlible of their Miftake other, fo far as they intended that their Histories should be read? may A be confirmed I to have intended to lead us into what is now found to be an Errobus It certainly law in the Power of fome of them to have observed that Error, and if they supinely meglette ed to do it. I think it may be, and not improperly; faid of them, that they did what they could to lead fequi, heedlelly or inadvertently, e.e. cutonorus an

He tells us next, that he thinks "it extreme " by hard, that I should charge Ruffel as a Forger, " while I do not explain the View Ruffel might oblingeshid By fuch as Contrivance, or the Trains to he ferved thereby living have proved the thing to be falle, and thatoRuffel, or whoever elferwas the first Contriver los Propagator of it is by his Self-contradictions, guilty of a notorious Untruth on Forgery But our Author thinks I fliould not favilo; unless I can allo thew what it was that moo ved Ruffel or whoever he was, too be guilty of that Forgery. If what I fay is extremely hard, he has put me on a Talk infinitely more for at that rate, the a Fergery or Lie be never to clearly proved; yet if its dannot be wife clearly prod vedy what Tempration the Many had to be wift eyrioflighe is to be reputed hinocent. What i would he have mento beache Svancher of Hearts and the proven what Temptation any Man has no Entre E have proved the Lie, vive the Sin, but it belongs mo Gon alone too know offine lly what 300 was

was his Motive for committing in What If I should fay, that he was like the wicked Gatiline; who rather than be idle was gratuito malure it. e. lied for Lying's Jake? I have known many frich Liars, especially those that deal in the Merneils lews, who have no other Plot in their Lies but to divert the Hearers. And what if that Author had no other Defign, but to entertain his Render with the Oddness of the Story? Or, what if I should fay, with Sir Fames Dalrymple (d), "That this "Continuator, living in the Reign of James III " was a Favourite of Widten Earl of Athole, and " willing to excuse upon that Title the Murder of King James I by that Earl, and writing in " a Time when all the Persons concern't in this "Story were dead, has been blindly followed in his Mistake by the rest of the Srough Writers Bur our Author will tell us, ashe does afterwards that thefe are but Conjectures, as are dome others mentioned by the Earl of Cromorty, Mr. Sage Mr. Rymer &c. What then ! Must we raise the Man from the Dead, or some Spirit from the other World, to know his Intention, as Hermolaus Barbarus is faid to have confulted the Devil, that he might explain what Arifforle meant by his Eversase zant Is it not enough that we have proved, that the first Broacher of the Story wrote a Lie tho we cannot rell for what End he did it, or white Man or Deviloput it in his Head hoo golonord vient Burr lays our Author, p. 62. M. That Annota-"in tion of mine falls heavy upon great Men whom I " efteens Sir John Skeen, and Sir Thomas Murray bublish the same Narration in their Chronological

(d) Historical Collections, Pref. p. 391 . 7 . 264 (1)

Tables: and his Majesty King Charles II. does "not escape, since by his Privilege he licensed Murray's Table. Is the King, and are thefe " learned Lawyers Retailers of Lies?" I have a great Esteem for these learned Lawyers, and a very high Regard to the Memory of King Charles. II. But no Regard to a thousand Lawyers or Kings, willy or ought to make me to believe that to be true, which I know to be falle. I much doubt if these Lawyers did compile that Table. That Sir John Skeen did not, is highly probable, from an Act of Parliament, Sir James Dalrymple (e) cites from his Collections, which flathy contradicts it. As for Sir Thomas Murray, be, or his Printer. has taken it as he found it, Subjoined to Sir Tohn Skeen's Edition of our Acts of Parliament, anno 1 507. I believe it has been taken from one Mo mypenny, who wrote an Abridgement of our Scots Chronicle about that Time, and who has with implicite Faith followed our Historians, especially Buchanan, who had the greatest Reputation among them. As to King Charles H. does our Author imagine, that he or any other King are at Pains to read every Book they license? He himself had acknowledged above (f) that perhaps King Charles would not give bimfelf that Troubles But Ladd, that while our Author would have us to be fo charify table to these his two great Lawyers, as to believe their Chronological Table, even supposing them to be the real Authors of it, he does not consider, that on the other Hand, he will make us uncharis rable in not believing other two Lawyers nothing · qoirain the fune Marradon in their Chronological

i(e) Historical Collections, Pref. p. 373

Earl of Cromarty and many others, who have not only afferted, but demonstratively proved, that what is said in these Tables of our King Robert III. is false. St. Paul, 'tis true, says, That Charity believeth all Things: But I hope our Author will not says that the Apostle meant, that we should be-

lieve both Sides of a Contradiction.

But before we have done with those Tables. which our Author feems to reckon an infallible Standard for Truth, I must further acquaint him. that whoever was the Framer of them, he has faln into two great Blunders. For, Ist he makes Allexander Earl of Buchan, a Son of Eupheme Ross; and adly, he makes Eupheme the Wife of Fames Earl of Douglas, to be the Daughter of Elizabeth More: Whereas the former was a Son of Elizabeth More, and the latter the Daughter of Eupheme Ross. And yet this he repeats twice, first in the short Account he gives of our Kings, from Fergus L. and next, in the Plan, or Draught, of them from Malcolm II. Nay our Author feems to have read our Historians so carelesly, that he has fain no the same Errors; tho' all of them, to a Man. relate these Genealogies otherwise.

It is pleasant to see how our Author vapours after this; for, being absolutely sure of his Tables, he cries out, "Now says be, let me sum up this "Account, as Mr. Ruddiman has done his. Do "not these Tables make it clearer than Mid-day, "Ist, that Eupheme Ross was Robert's first Wife. 2 dly, That, after her Death, he married Elizabeth Muir. 3 dly, That, before he married her, he had by her three Sons, who must have been

" Bastards

Baftards. And 4thly, That John a Baftard (after wards called Robert) was King after him?" Have we not here three or four as apodictick Propositions, as evident as any in all Euclid? Yes, certainly if we will grant him this modest Postulatum, that these his Tables are infallible; but no otherwise. It is a bad Sign of them, that by his third Article, he gives to Elizabeth More three Sons; when yet these Tables, and he from them immediately above, give her only two, taking from her the third, Alexander, and giving him to the wrong Mother Eusheme Ross, who had no more Right to him, than one of Solomon's Harlots, whose Son was dead, had to the living Child of the other. Fine Tables thele, which run counter to all our Hi-Rerians, and which our Author fometimes agrees with, and fometimes not! Are they a firm Basis to build our Author's mighty Superstructure upon, which cannot support the Weight of a Cobweb? Or can we expect a more than meridian Light from them, which will lead those, who will foolishly be directed by them, into a Cimmerian or Egyptian read our Hiltorians lo careletty. that Islandar

What follows in this p. 63, and the two or three following, is not worth the being answered, in every Particular. For in them he first tells us, that the Buchanan may be pretended to have had a Turk to serve, viz. to savour the Earl of Murray; yet surely the Continuator of Fordon, Boese, Bishop Lesly and Hawthornden had no such Views. Tis no Matter to me, whether they had or had not Views, or what their Views, if they had any, were. What they say is manifested to

Baffards,

be false, and what further would our Author have Children, by a Woman celled Morantog of au

AGREEABLY to this he next tells us, that the Earl of Cromarty, Mr. Sage and others are divided in their Opinions for Conjectures, about what should have been the Occasion of, or have given Rife to that Fable. What then? If it is proved a Fable, will their disagreeing about the Rife of it, make it true? Are there not innumerable Effects, and Phanomena in Nature, which we every Day experimentally see, feel and know; will the eternal Wranglings, that Philosophers in all Ages had, and still have, about the Causes of them, make them not to be, or to be otherwise than they are? If our Author will reason after this Manner, he has been taught a new Kind of Logick, never as vet known in our Schools. Jim mondonomi ai

PAGE 65. He fays, "That the Earl of Cro-" marty feems to oppose Mr. Ruddiman, who writes, that one Russel was the first Contriver " of the Story, for the Earl expresly says, that " the first of our Historians had heard it (g)." Our Author in this does not very fairly represent either the Earl or me. For the Earl is giving only a Conjecture, whence this Fable might have had its Rife; namely from this, that perhaps the first of our Historians, having heard that Robert II. after Queen Eupheme's Death, had Children by a Concubine, whose Name was Moram, did ignorantly confound this Concubine Moram with his first Wife More. All therefore that the Earl fays, and that with a perhaps too, is that the first Author of that idle

lyst the Mr. Har's Vindication of Alicalus Alors, ports

<sup>(2)</sup> Vindication, p. 75.

idle Story bad heard that King Robert bad some Hatural Children, by a Woman called Moram; which was true (b). But does it hence follow, that that Author had heard the whole Story, concerning Elizabeth More; &c. as he relates it? Again our Author, both here, and in p. 61. makes me fay dire-Aly, what I fay with a Referve, for I do not fay positively, that the Contriver of it was one Ruffel, as he there translates my Words; but only fuiffe videtur; feems to have been the Contriver; or rather the primus Architectus, the first and prime Master-builder of it; which does not hinder, but that others might have brought him some Materia als for it. But now I fay farther, that fince, whoever he was, that continued Fordon, and from whomfoever he might have his Information; he is inconfistent with himself in more Instances than one, he ought to be accounted the first Forger and Contriver of that fabulous Story.

PAGE 66 and 67, Mr. Logan brings in two English Historians, Holinshed and Sanderson, to confirm what is related by those of Scotland; the tis certain, that they could know nothing of the Matter, other than what our Authors had taught them. And yet so inconsiderate are they, that deviating from those their proper Guides, they fall into great Errors. For Holinshed in the Place cited by Mr. Logan, (i) makes the Sons that King Robert II. had by Elizabeth More, to have been begotten in Adultery, i. e. while he was married to Eupheme Ross, which none of our Historians had the

(i) History of Scotland, p. 245. col. 2. noisesibai V (2)

<sup>(</sup>b) See Mr. Hay's Vindication of Elizabeth More, p. 114.

the Impudence to write. Again he fays, that this Robert did not long after, by Authority of Parliament, make his eldest Son John Earl of Carrick: In which he commits a double Error, 1st, In supposing that our Kings could not create Peers, but by Authority of Parliament. And 2dly, That he says that this John was made Earl of Carrick by his Father Robert II. when it is certain, he was advanced to that Dignity, by his Grand-Uncle David II. (in the 39th Year of his Reign, says Mr. Crawford (k) i. e. two Years before his Father came to the Crown) by whom he is so stilled in that King's

Charter in Favours of the Bishops.

Non is the other English Historian Sanderson much better. For he narrating the same Story, ushers it in with these Words, Robert being aged and infirm, entrusted the Power of the Militia to bis eldest Son John, Earl of Carrick, a valiant Perfon (1), substituting John the eldest, in Place of Robert the second Son, Earl of Fife and Menteith, whom (as all our Historians relate) because he himfelf was old and infirm, and his eldest Son John being by Nature slow, and made lame by a Stroke he had got by the Lord Dalkeith's Horse, and thereby unable to endure the Fatigues of War, his Father made Governor of the Kingdom; which Power he exercised during the whole Reign of his elder Brother. What Credit then is there to be given to fuch blundering Historians as these, who have

(k) He cites for it Sir James Balfour's Annals; but I find no fuch thing either in his Annals or Genealogies.

<sup>(1)</sup> We read nothing of John's Valour, fave only that he headed his Father's Vassals and Followers in an Attack made upon the English, in the Year 1355.

have not the Sense to follow those they copy after? And here our Author will not take it amils, that I tell him, that while he is taken up with fuch blundering Writers, he falls into a great Blunder himfelf; which yet is not youched by them or any other Author whatsoever, his unerring Tables only excepted. For in that Page 67, he first cites Holin-Shed, as narrating an Act of Parliament made by King Robert II. (of which afterwards) whereby the Succession to the Crown is appointed after bis Death, to go to his five Sons and their Heirs Male, in their Order; and not till all these should fail, to his Heirs general, either Male or Female. All this is right in Holinsbed, fave only that in reckoning up the Sons, he puts Walter before David, this last being the clder of the two Brothers (m). Upon these Words however of Holinsbed, adds our Author, "I would have Mr. Ruddiman to observe, " that, by this long Detail of Parliament, Eupheme, " who was married to James Earl of Douglas, " King Robert's Daughter, by Elizabeth Muir, " is thut out, notwithstanding her Proximity of " Blood to her Brothers. Will Mr. Ruddiman call this " Act of Parliament a Forgery also? If he will, was " Ruffel the Forger, or who was he?" In the 1st Place, not to mention the indistinct Way, in which this is exprest, he, contrary to all our Historians and Genealogists, falls in with the Blunders of his Tables, in making Eupheme, the Wife of Fames Earl of Douglas

<sup>(</sup>m) Which is the less excusable in him, that H. Boece, from whom he has taken the Substance of this Act of Parliament, tho' a little before he names Walter before David, yet here, fol. 328. lin. 47. he expressly calls him, Davidem ex Eusemia primogenitum, Comitem Ernavallis. vernaculo Scotorum sermono Strathern.

las, a Daughter of Elizabeth More, when all others, as I said before, make her a Daughter of Eupheme Ross. By the bye, such of our Historians as name her, (as Boece, his Tables, &c. do,) are mistaken in calling her Eupheme; for her real Name was Isabel, as I have shewed above p. 26.

But the best of all is, that he asks if Mr. Ruddiman will call this Act of Parliament a Forgery also. Mr. Ruddiman is so far from calling or thinking it a Forgery, that he takes it to be a most real Deed, and at the same Time an irrefragable Proof of the Legitimacy of Robert III. For in that Act, which past in the third Year of Robert his Father's Reign, the very Year in which Fordon's Continuator, and others after him, make Queen Eupheme Rass to have died, Elizabeth More is expressy defigned his first Wife, and confequently supposed to be some Years before dead. This is the Act, which, tho' it quite overturns his Scheme, yet he there inadvertently will have to be genuine, (as it really is) and blames me as if I thought otherwise. yet, (who could have imagined it?) forgetting what he has here faid, or rather not knowing what Act he is speaking of, within three Pages after, he denies there was any fuch Act; and in p. 151, he tells us, be apprehends, from the Management of Sir George Mackenzie, and Sir James Dalrymple. that it will not stand the Test. This is one of the two Acts mentioned by Sir Lewis Stewart, of which and some other Writs, likewise taken notice of by that great Man, I will have Occasion to speak by and by,

Our Rev. Author p. 68. wants to know from Mr. Ruddiman upon what Grounds he ascribes the Con-

trivance

Privance of the Story about Robert's Wives and Children to Ruffel. Mr. Ruddiman does not pofitively ascribe it to Ruffel, but only, as I said before, that he fuiffe videtur primus architectus, feems to have been the first Contriver (if our Author will needs fo translate my Word architectus) of it. As to this Ruffel, I frankly acknowledge, that I had no great Reason to ascribe it more to him than to other two, Walter Bowmaker Abbot of Inchcolm, (not of Icolmkill, as Sir George Mackenzie by Mistake calls him) or Maonus Macculloch Monk of Scoon. For these two, as well as Ruffel, are faid to have compil'd that Continuation of Fordon. That which inclin'd me to attribute it to Russel, is a Note subjoin'd to a Copy of Fordon's Part, belonging to the Earl of Murray, as we are inform'd by Bp. Nicolfon (n), in these Words, Pradictos quinque libros Domimus Joannes Fordon Presbyter compilavit; residuum verd quod sequitur continuavit Dominus Patricius Ruffel monachus Vallis virtutis, ordinis Carthusienhis, & ad finem perduxit; additis tamen interim & insertis nonnullis ab incerto authore, prout in prioribus quinque libris. Would not one think, from these Words, that I had a very plausible Reason for ascribing the Continuation of Fordon to that Ruffel, as much as to Magnus Macculloch, or Walter Bowmaker, who are likewise said to be the Compilers of it (o)? But now I am strongly of Opinion, that Bowmaker was the chief Author, not only because it is said so of him, in the Liber Carthusianorum de Perth; but especially because

<sup>(</sup>n) Scot. Hift. Libr. p. 95.

the late learned and industrious Tho. Hearne (p) mentions several Copies of Forden, some in publick Libraries, others in private Hands, in which that Continuation is attributed to him.

Our Author next observes, p. 69, "That "there is a Contest among the Advocates for the Legitimacy, for the Honour of being the first "Discoverer of the Cheat; and adding, that Sir George Markenzie, on the Succession (q), gives it to Sir Lewis Stemart, he fays, it would "feem that Sir Lewis wrote on this Subject in 4 Latin; for Sir George gives a Latin Passage, "from his Performance?" This our Author gives us the English of and then adds, "That Sir. George tells us, he got this Paper from Lord Pitmedden, who has wrote some learned Observations upon this Point. But, Says our Authors Sir Lewis would have done better, to have ta-" ken a Copy of these two Acts be mentions, with the Names of all the Subscribers, the Time "when, and the Place where these Acts were " made and subscribed; for we have nothing but " a Story of what Sir Lewis faw, handed down "to us by Tradition." And then our Author has Recourse to his anchora facra, his never-failing Refuge, (as he takes it to be) Sir Thomas Murray's Chronological Table, with the Royal Licence, thinking that that will fecure him against all the Storms that Sir Lewis, Sir George, Lord Pitmedden, and all others can raise against him. As to what he fays, that Sir Lewis ought to have taken a Copy of these two Acts, I must tell him, that orlin

(r) Pag. 120 and 143.

<sup>(</sup>p) Preface to his Edition of Fordon, p. 19 and 22.

<sup>(</sup>q) Fol. Edit. p. 47 and 48.

that Sir Lewis has done fo, in his Collections; of which there is a Copy in the Advocates Library, and no doubt in some other Hands. Sir James Dalrymple had one of them, and in his Historical Collections remits his Readers to them. But I must tell him farther, for it would seem, by what he writes here, that he is ignorant of it, that the first of these Acts is the very same which the Earl of Cromarty gives us (r), and our Author himself fees down some Parts of twice (s), with a Gloss worse than that of Orleans upon it. And if that will not fatisfy him, the Original of it is yet to be feen among our publick Archives, with no fewer than fifty two Seals of our principal Nobility and Clergy appended to it. It bears likewife for its Date, at Scoon the 27th of March 1271. As for Subscriptions, which he requires, when he finds the Names of the Members of Parliament Subjoined to the Acts they pass, in this or any other Kingdom, he will find them likewise at this Act. Tis true, Sir Lewis Stewart fays of both these Acts, that they were subscribed by the Bishops, Nobles; &c. But as the Acts themselves make not the least Mention of any such Subscriptions, but only of their appending their Seals, Sir Lewis could mean no more, but that the Names were wrote on the Labels or Tags on which the Seals are appended, that it might be the better known to whom each Seal belonged; and that was probably done by the Clerk who wrote the Act itself. The Original indeed of the other Act feems now to be loft. but it was extant in Sir Lewis Stewart's Time, who

(s) Pag. 120 and 148.

<sup>(</sup>r) Vindication, p. 35. 8vo Edit Tol. Edit. p. 47 and ....

who assures us he saw it, as well as the other. It was likewise probably seen by Sir John Skeen, to whose Collections Sir James Dalrymple refers us for it (t). H. Bosce has likewise seen it, or had an Account of it; and from him Holinshed, as was observed above, p. 180. So that our Author has no Reason to call what Sir Lewis says, nothing but a Story handed down to us by Tradition.

In opposition to this, our Author transcribes a Passage from the Earl of Cromarty's Preface to the fecond Edition of his Vindication, &c. where he fays (u), " I was the first who rais'd the dead " Reputation of Elizabeth Muir and her Chil-" dren: For Sir Lewis Stewart's Hearfay of two " Papers, that are not extant, and not to be " found, could not have flood against the stormy " Calumnies of fo many Writers and Historians " both out of and in Britain." These are indeed his Lordship's Words; and, as I am forry they should have dropt from his Pen, so I can attribute them to nothing, but partly to the Passion Mr. Sage had put him into, by some Expressions not so civil as they ought to have been; and partly to that Vanity which many Men are liable to, of being thought the Authors and Inventers of what they only were the Improvers of. That noble Earl, to do him Justice, was the first that methodiz'd and brought into a more full and clearer Light, what other's had before him but slightly touched, or not put into fo good Order. Sir Lewis Stewart, however, was certainly the first Discoverer of that grand Error of our Historians: But he only in that A a Paper

(#) Pag. 14.

<sup>(</sup>t) Collections, Pref. p. 35.

Paper mentions Things in general, without giving a Detail of these Deeds he founds upon. At least, the Earl feem'd not to have feen his Collections, in which these two Papers, i.e. the two Acts of Parliament, are transcrib'd. But that was not enough for the Earl, or our Author, to speak so slightingly of what a Person of so great Note gives under his Hand, that he faw with his own Eyes, among the Archives in the Castle of Edinburgh. Perhaps my Author, as he will not believe Sir Lewis, fo as little will he believe me, when I tell him further, that I faw and perused many Years ago, a fmall Latin Treatife of the same Sir Lewis Stewart against Buchanan's Dialogue De jure regni, wherein, I well remember, he says he made that Discovery, and communicated it to King Charles I. I had it from Mr. John Croffe, then Keeper of the publick Records; but whether it has these Words in it that are mentioned by Sir George Mackenzie, or not, at this Distance, I cannot affirm (v)

OUR

<sup>(</sup>v) Since I wrote this, I have got the Use of that MS. Treawife of Sir Lewis Stewart, in the 9th Page whereof I find thefe very Words, mentioned by Sir George Mackenzie, and transcribed from him by Mr. Innes in his Observations on Robert II's Charter Anno 1364. Our Author has translated a Part of them in his p. 170. But, for the greater Clearness, I shall fet down the whole of them, with what soon after follows, confirming what I have said. Buchananus lib. ix. in vita Roberti II. affirmat Euphemiam Comitis Rossensis filiam primam Regis Roberti II. uxorem fuisse, &, ea mortua, Regem superinduxisse Elizabetham Moram, ex qua prius liberos ternos mares suscepisset, & eam uxorem duxisse, ejusque liberos regno destinasse; ut postea eorum natu maximus successit. Quod quam falsum fit, apparet ex Archivis in carcere [I Suppose the Author wrote in castro | Edinburgens reconditis. ubi exftant separata acta duorum Parliamentorum subscripta manibus

Our Author, p. 72. and the two or three following, thinks it of no small Importance to his Cause, if he can set the Desenders of Robert III.'s Legitimacy by the Ears. They differ, 'tis true, in some Things, and accuse one another of some Mistakes they have fallen into, in treating of that Matter: But what follows from all this? Because they disagree in some Things, are therefore the Things in which they all agree not true? One would think, that a quite contrary Inference A a 2 should

manibus Ecclesiasticorum, Prasulum, Nobilium, Baronum, & aliorum Stataum Parliamenti, & corum sigillis roborata; quibus Elizabetha Mora agnoscitur prima uxor, & Euphemia Rosse secunda; & liberis ex Elizabetha Mora, tanquam justis. Heredibus regni, successive regnum decernitur; & post eos liberis Euphemia Roffe. Nec non ibidem charta exftant plurima, facta per Davidem II. eorum patruum magnum, ex diversis terris, Joanni filio primogenito nepotis ejus Roberti, dum Euphemia Rosse viveret, nec non Davidi filio natu maximo Euphemia Rosse, quem solum filium indigitat Roberti nepotis sui, si Elizabetha Mora non priùs fuisset nupta; nam Primogenitus nunquam attribuitur notho. Imò ego plures quam viginti chartas in archivis inveni, ubi etiam eas reliqui, ex quibus Sole clarius elucescit, Elizabetham Moram primam fuisse uxorem, & Euphemiam Roffe secundam. Nam entra controversiam liberi Elizabetha Mora atate grandiores erant liberis Euphemie Roffe. - And a little after, Ampliorem de his narrationem fecissem, nisi Rex, quorundam subdolo consilio, qui Comiti Montethi ruinam machinati sunt, & calumniis tanquam regno inhianti onerarunt, ne veritate elucente publica invidia opprimerentur, metus & inductus, me inhibuisset, donec mandatum ab eo acciperem. Sed omnium supra dictorum copiam, ex archivis desumptam, Regi legi & obtuli; & apud me jussu Regis habeo, eum autographa in publicis archivis reservantur. That this Treatise of Sir Lewis Stewart was written Anno 1645, we learn from the 21st Page of it, where he fays, that from the Commencement of our Monarchy, i.e. according to our Writers, anno ante Christum natum 330. to the Time of the writing of his Treatife, had past 1975 Years.

should be made: Exceptio firmat regulam in non exceptis, is a standing Maxim, and, as in other Things, ought to take place in this. I have given above, p. 177, an Instance of the Absurdities that otherwise would follow in Philosophy: I shall here give him another in Theology, in which, if that shall not be allowed, Matters of valtly greater Moment, than what we are now upon, would fuffer exceedingly, if we should follow our Author's way of reafoning. And it is this: All that would be thought Christians, do agree that the Scriptures of the Old and New Testament are the Word of Gop, and that their Religion is founded upon it; and yet the various, and almost innumerable Sects that profess Christianity, are vastly divided in their Interpretations of what is contain'd in those sacred Volumes: Will it therefore follow, that neither they, nor the Religion contained in them, and established by them, are true?

And this will likewise serve in some measure to answer an Objection started by our Author a little before, p. 69. how it could come to pass, that the several Continuators of Fordon, and the Transcribers also, should (if what they say of Robert III. be salse) never have found out the Fiction and Contrivance, or entertain'd a Suspicion about it. Nay, that all our Kings from his Days, and all their Statesmen, should have suffered this vile Aspersion to pass, without taking notice of it, or finding fault with our Historians for it. To this it is enough to say, that these Transcribers and our Historians blindly and implicitly followed one another, a.! all of them the original Forger, Bowmake, Russel, or whoever our Author will.

sup I sage they be I califer T earlies Lad got 1975 I care

Thus taking the Thing for granted, they never troubled their Heads farther about it. And our after Kings and Statesmen, not suspecting any Falshood in the Matter, relied upon the Faith of our Historians; and tho' they could not but wish that Things had been otherwise, yet they did not push on an Enquiry, which, in their then prejudic'd Opinion, they thought would prove fruitless. Befides, in those Times, a nice and accurate Disquifition, concerning the Truth and Falshood of his storical Relations, was little practis'd; the Generality of Men, with implicite Faith, swallowing down what was recorded of their several Nations and Families, without doubting or disputing about them. But, as nothing is more facred than Truth, fo the indefatigable Pains and Labour of learn'd Men, in this and the preceeding Age, cannot be too much commended; who, as if they acted in Concert, have applied themselves to rescue the Annals of their feveral Nations, from the innumerable Fables, legendary Stories, and gross Errors, with which they are so blended, that were it not for the Industry of those learned and inquifitive Persons, we should have eternal Falshood instead of Truth. Even our Buchanan, tho' he is not free from a great many Errors himself, yet, as he professes in the Beginning of his Work, that as on the one Hand he was to rescue the Actions of our Ancestors from Oblivion, so on the other, that would purge them from the Vanity of Fables. Accordingly he, after 70. Major, rejects what was recorded, in almost all our Histories before him, concerning Gathelus and Queen Scota, and of Hiber and Himicus, Simon Brek, and their other Descendents

dents in Ireland, as pure Fictions. And yet thefe Fictions feem to have been universally believed. not only by the lower People, but by the great Men both of the Nobility and Clergy of Scotland, fome Ages ago. Witness the famous Letter to the Pope, wherein that fabulous Original of ours is made honourable Mention of. , Might I not then retort our Author's Question upon him, how it should happen, that the Falshood of our Historians. as to that Matter, should never be discovered till Major or Buchanan's Time. I forbear giving other Instances of that Kind, which are without Number. But what if that Error of our Historians. concerning the Legitimacy of Robert III. had never been detected, (which certainly would have been the Case, had these Documents which evince it been lost, or never lookt into;) would it have left off to be an Error? There is no Prescription. as Tertullian fays, against Truth: Whether difcover'd or undiscover'd, it is eternally and immutably the same. How many Falshoods, Lies, and Perjuries: how many Murders, Adulteries, and Thefts: how many religious Pretences, varnish'd Hypocrisies, and subtile Disguises, are hid from the Eyes of poor Mortals, never to be brought to Light, till the great Day in which all Secrets shall be revealed? And if in that Day Men must give an Account for every idle Word they speak, how much more must they, who forge, propagate or support a Lie. I hope, after this, our Author will forbear the Exclamations he has here; Strange! Wonderful! Surprizing! Amazing! lest others, if he perfift, make them fall back with greater Force upon himfelf. I pass

I pass over his idle Excursions, in p. 72-74. which are little else than Repetitions of what he had faid before, and hardly have any Connexion with the Affair we are upon; and go on to his p. 79. where he fays, " He is to make some Observati-" one on the harmonious Account given by our " Historians, of the Bastardy of Robert III. which " give great Probability to it.", And his first is, "That Walter the eldest Son of Euphemia did " procure the Slaughter of King James I. pretend-" ing a Right, as procreate by King Robert, on " Euphemia Rofs, Robert's first Wife." But in the first place, not that Walter Earl of Athole, but David Earl of Strathern, was Queen Eupheme Ross's eldest Son. In this indeed he follows Buchanan and Holinshed: But why does he not follow his own infallible Tables, which (as he owns in the very next Page) as well as H. Boece, and I (whom he also names) make David the elder of the two Brothers? What milled Buchanan, and after him Holinshed, was, that they thought that Walter, after he should have caused James I. and his Infant Son James II. (as he likewise seems to have design'd) to be murdered and taken out of the Way, would not have been the next Heir to the Crown, unless he were elder than David. who, tho' then dead, had left Isfue. But Walter's Designs (had they not been execrably wicked) were otherwise, and, in that respect, better foundcd. What Claim he might have laid to the Crown, from a pretended Illegitimacy of his Father's Children by Elizabeth More, had young Fames II. escaped his Cruelty, I cannot tell. This is certain, that of all the lawful Descendents of Robert III.

in the Male Line, he only, after the Murder of his Father, remain'd; the rest having all before this Time, either by a natural Death, or in Battle, or by the Hand of Justice, gone to the other World, without leaving any lawful Male Issue behind them. Had then Walter got King James I.'s young Son taken off, as he had done the Father, (as it is no Breach of Charity to think so monstrous-a Wretch intended) the Competition for the Crown would only run betwixt himself and his elder Brother David's Daughter, (he himself being then dead) or her Son Meliss Graham. And here he had very good Pretentions, no less than an Act of Parliament to Support him. This is that Act I mentioned before, made in the third Year of his Father Robert II.'s Reign, which (as I observed) our Author in one Place holds (as it really was) to be genuine, but in other two Places discards it as fictitious. By this Act the Crown was to devolve, by lineal Succesfion, to King Robert II.'s five Sons, by his two Wives, in their natural Order, and to their Heirsmale only; Daughters not being admitted to fucceed, till the Heirs-male of them all should fail. Fames I.'s Son then being supposed taken out of the Way, and David, Walter's elder Brother, only leaving a Daughter, he would by that Act of Parliament have the only true and undoubted Right to the Crown. And here I am not asham'd to own, that I, not having duly confidered that Act of Parliament, am mistaken in that Part of my Note, pag. 438. col. 2. cited by Mr. Logan, where I prefer Meliss Graham, Grandchild (by his Daughter) to David Earl of Strathern, before Walter Earl of Athole; his Right by her being as yet

been right in that Note, it would make nothing for our Author's Purpose; and far less, by what I have said, will this his first Observation.

In p. 77, he fays, " But Mr. Ruddiman would know, that Walter was not only punished by "Death but he incurred the Forfeiture of his " Honours and Estate, upon which David had a "ny Right that Walter could lay Claim to." But how would, could or should Mr. Ruddiman know what, as it is here told, he does not understand; at least, fo far as he can understand it, he is fure it is not true. "Our Author all along begs the Question, and takes it for granted, that Robert III. being illegitimate, the Right of the Crown belonged to Robert II.'s Children by Eupheme Rofe; and then, contrary to his own unerring Tables, over he will have Walter to be her eldest Son. But what does our Anthor mean by the Honours and Estate of Walter, which he by his execrable Crime had for ferred whether his Honours and Effate as Earl of Athole, for the Title he had wathe Crown? If the former, to these David, or his Heirs, could have no Right, for they were forfeited to the Crown, or James II. and not to David, the he had been then alive, as he was not in If the latter. viz. a Title to the Grown, David, tho alive, could derive no Right from Walter; for that Walter was never possest of, nor could pretend any Right to, so long as James II. was alive, any other way, than upon the Supposition of Robert IIIds Illegiumacy. But what is this but building a House upon fuch a fandy Foundation, as, without a Storin, must fall of Title filled with Pride and ambition, Ale

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be Title Story which our Author, pir 701 brings from Sanderfal's History of King Charles A to Sup port what he had faid, is altogether inept sufor it goes upon these three falle Suppositions, that Robert III was a Bastard; that Walter Earl of Athole was Robert II.'s eldeft lawful Son; and that he being forfeited, the Right to the Crown fell to his volunger Brother David's Heirs The first of these is a begging of the Question; the second and third are contrary to the Act of Parliament, which he himself cites from Holinshed and will not allow to be called a Forgery. In it (the' Helinfeed mi-Stakes the Order) David is nam'd Robert IL's eldest Son by Eupheme Ross and his Daughter, as being a Female, is by is excluded. But why should I feek for any other Argument to confute our Author, but that Add For if it is genuine as it certainly is then not Eupheme Roll, but Elizabeth More, was Rabert's first Wife, and confequently John, afterwards Robert III. and all the other Children his Father had by her, were as lawful as a just Marriage could make them, slotted to

Our Author however thinks, p. 78 to make something of the Account given by Sanderson, of William Graham Earl of Menteith, who, through many Generations, was descended of that David Earl of Strathern. The Matter in short is, "This "William had in King Charles I.'s Time got him-" self served Heir to that his Anceston David Earl of Strathern. He was indeed otherwise a "Nobleman of excellent Parts, and for some time "Justice General, and President of the Privy "Council of Scotland: But being by this new "Title filled with Pride and Ambition, and build-

building his Pretentions upon the Supposition of Robert III,'s Bastardy, gave out that he had a better Title to the Crown than King Charles himself had (w). This having come to his Majesty's Ears, he thinking it (as it was) a Matter of dangerous Consequence, caused William Graham to be put out of his Places, and his Title as Earl of Strathern to be reduced." And this probably gave Occasion to that eminent Lawyer Sir Lewis Stewars, of enquiring into the Matter, and making the Discovery above mentioned.

The Inference however that our Author draws from this is very odd, that King Charles I. and his Soms were Usurpers. But wherein were they Usurpers? viz. in this, that they and their Predecelfors, for many Ages before, were descended of Robert III. who was a Bastard of Robert II. and this William Graham Earl of Menteith was lineally descended of David Earl of Strathern, who was that same King Robert II.'s lawful Son. But, besides that this Inference of our Author is founded upon the faste Supposition, and which will never be granted.

(w) Sir Lewis Stewart denies this, and fays, That it was an unjust Calumny, raised by some then in Court who envised his Greatness. But his assuming to himself the Title of Earl of Strathern, which, as being a Male Fee, had fallen to the Crown upwards of 200 Years before, makes that Earl's Conduct very suspicious.—As this Assume made a great Noise, Drummond of Hawthornden in one of his Memorials of State, which he calls Considerations to the King, [p. 149 of his Works] has a great many political Reflexions upon it. But as all he says proceeds on the Supposition, that what our Historians relate concerning our Robert III. is the (as was generally believed in his Time) I will not say with Mr. Hay, that he speaks Nonsense upon the Head; but that the Grounds he goes upon being talle, there was no occasion for these his Reslexions.

granted him, that Robert III, was a Baskard, I cannot but observe, that our Author hereby quite destroys his own Principle, of our Monarchy's being elective, and not bereditary. For if King Charles I, and his Sons, and all their Predecessors backwards to Robert III. were Usurpers, and the Right did remain in the Posterity of David Earl of Strathern, and particularly in the Person of that Earl of Menteith; what is become of the Suffrages of the People, and the two Acts of Parliament, afferting, recognizing and confirming the Right to the Crown to Robert III. and his Descendents, through to many Generations? Were they all Acts of Injustice, and contrary to our Constitution? What is this other than to say, that the Right to the Crown of Scotland is Strictly and absolutely bereditary, and that no Length of Time can defeat it? If this is true, and that that Earl of Menteith's Behaviour was disadvantageous, as Sanderfor fays it was, to King Charles I, then what our Author affirms is no less disadvantageous to his prefent Majesty; who, if he derives his Right from the same Fountain that King Charles I. did his, and that the Reigns of fo many Kings before them, was a constant Train of Usurpation, he, as well as King Charles I, ought in Justice to have given up their Title to the Descendents of David Earl of Strathern, fome of whom, I am affured, are remaining to this Day; for they according to our Author, are the only rightful Heirs. " If Mr. Locan thinks by this to ingratiate himself to his prefent Majesty and his Royal Family, he will. I believe, find himself much mistakenil wolan wo gnings Trone) I will not fay with Mr. Hay, that be totak's Nonlen le he Head, out that the Grounds he goes upon being falle,

there was no occasion for these his Reflexions.

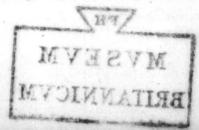
2197 Our Author's second Observation, which, 78. he thinks will support the Account our Hi-storians give of Rabert II.'s Wives and Children, is, "That Robert, upon his coming to the Throne, called a Meeting of Parliament, to have his Son John (alias Robert) by Elizabeth Must, declared his Successor, because his Children could not inherit by that subsequent Marriage of her, after the Death of Eupheme Ross his first Wife, it being apparently infufficient. There was no "Necessity (adds be) of obtaining an Act of Par-" liament to make her Children capable to inherit, and thereby to fet by the Children of Euphemia. for no Fault or Forfeiture at all, if Elizabeth had been his first Wife, &c."

Anfw. 1. This is again begging the Question, by supposing that Elizabeth was the second Wife, and not the first, and that she survived the first, and was not married to King Robert till after her Death. The contrary of all which is as certain as any Matter of Fact can be at such a Distance of

Time. But,

Answ. 2. That Act of Parliament does not make Elizabeth More's Children capable of inheriting the Crown, to the Prejudice of the Children of Eupheme Ross; but declares that the true Right was inherent in the eldest of Elizabeth More's Children long before that Act part, as shall be demonstrated afterwards, and die it went bear afterwards

But, fays our Author, what need of an Act of Parliament to confirm John's Right, if it was for olear before. To which Objection it might be sufficient to fay, that the Parliament did pass such an Act, tho' they had given us no Reason for their so doing



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doing. Parliaments, with our Author, are the most sovereign Things in the World, and are not obliged to give Reasons for their Actions. For who can or dare say unto them, what or why do they thus and thus? At other times however, our Author can tell us, that they make Acts, not only without, but against all Reason. But,

Anfw. 2. That Parliament gives a very good and Substantial Reason for making that Act: Which was not, to fecure John's Right against the Prerentions that might be made by the Children of Eupheme Rofs; for about that there was no Controverly, David the eldelt of her Children being among the first of those that put their Seals to that The Reason they give was very different, viz. That it was done after the Manner and Example of good King Robert I. their then King's Grandfather, of famous Memory (x). That King had made feveral Settlements or Entails of the Crown to his Family and Descendents, the Defign whereof chiefly was, to cut off all the Pretensions of the Baliols and their Descendents, Our Histories inform us, that not withstanding these Acts of Robert I. Edward Baliol, the Son of John the Competitor, fet up his Claim to the Crown, and what by the Help of a difaffected Party at home, and the powerful Affiliance he received from England, he for fome time policit, and had till his Death well nigh kept it, had it not been for that noble and ever glorious Opposition made by King David the true Heir's loyal Subjects, who at last drove this fecond Balist out. But why need an end for that the Parliament did pals fach an

(x) More & exemplo, celebris memoria, boni Regis Roberts

MVSEVM BRITANNICVM ( 499 )

I speak of this to when him a few Days before this Act pasts a new Pretender Started up, (and, if wo will believe our Anthor, p. 46 his Pretentions were dust and well founded;) I mean William Earl of Douglas, who alledging Right, as descended of the Baliols and Cumings, put in his Claim to the Crown, affirming he had a better Title to it than eithers the Bryaca or the Stewarts? Was it not then highly expedients not to fay necessary (when every new Reign produced a new Pretender) to take as effectual a Course as it was possible for a Nation to device, to put a final Stop to all fuch Claims for ever? Especially if we consider what a powerful Adversary they had in England, who lay constantly at the Catch, and watch'd all Opportunities of dividing us among ourselves, and, under a Colour of disputed Titles, of making the Kingdom at last his own. It was for this Reason that a new Article was added, in the Renewal of the old League, (concluded that very fame Year in which this Act of Parliament was made,) between Scotland and France, wherein it is expresty provided, That the King of France should Support the Family of the Stewarts against any Competitor, which the King of England might raife up against it. These are the Reasons the King and People of Scotland had for paffing that Act of Parliament; and if our Author will give a better for any Act of Parliament that ever was made in any Kingdom, 

But to go on. 'Tis strange that our Author should stumble almost at every Step he makes; for immediately after, p. 79, he tells us, "That the Reason why King Robert was earnest to have Elizabeth

it lizabeth's Children legitimated! was his great Af " fection to ber." He adds, that this Reafon is condescended upon by our Historians, and in the two chronological Tables Fordon's Continuator and Major give no Reason at all; Lesty says it proceeded from the Love he bore to the Mother. Boete, from the Affection he bore to the Children Buchanan is in a Doubt, to which he should ascribe it. But all is idle Tatle: King Robert was marfied to Elizabeth More, and the dead, a great many Years before; as shall be made out to the Conviction of all Mankind, except fuch as have bid Defiance to the clearest Light.

In the fame Place he fays, that which did ingratiate Robert to the King was his Valour, and for this he brings us the Words of the blundering Englife Historian Sanderson; of which we have Tooke singdom at laft his own.

before p. 179.01 20.W

A little below, he speaks of the Entail of the Crown, made by King Robert Bruce, anno 1212, the next Year after the famous Battle of Bannockburn. That Battle was fought in June 1315. But it is an Error in Sander son to place ir in 1312; Which our Author, had he been accurate enough, ought to have corrected.

In his next Page, 80, He lets fly at Mr. Sage, with whom he has an irreconcileable Quarrel, on other Accounts as well as this. That worthy Perfon had faid (y), " That Robert probably married " Elizabeth More privately, against the Decrees of the Canon Law, which prohibites Marriages within fuch Degrees of Affinity or Confanguinion why King Robert was carnell to have E.

<sup>(</sup>y) Introduction, p. 43.

"ty: That, before he obtained a Dispensation to le-" gitimate the Marriage, Elizabeth had born to him " divers Children, perhaps most of, if not all, his " Sons: That the Clergy, who in those Times " were the chief Keepers of Records, and who, " from their Zeal for the Canon Law, and the " Pope's Authority, were ready to damn all Mar-" riages that were uncanonical, had marked those "Children, who were born before the Dispensa-" fation was obtained, for Bastards: And that the " Continuator of Fordon, or some other little Hi-" storian, had observed that they were so marked, " and so had taken it for granted, that they were " indeed born Bastards: And the rest of the Fable " was easily contrived." These indeed are Mr. Sage's Words, but there was no Occasion for those many Questions, and that long Train of Raillery, which our Author vents upon him on that Account; especially as Mr. Sage (which our Author likewise owns) gives it as a bare Conjecture; and adds, " Tho' it should be rejected, as the most " improbable of all, he should not be moved, for " he lays no Strefs on it."

OUR Author comes now p. 82. to bend all his Force to invalidate and overthrow the Credit of those Charters and other Documents, which prove the Legitimacy of Robert III. He could not but know, that if these were true and authentick Deeds, all that our Historians have said to the contrary, must fall to the Ground as pure Fictions; and that therefore he had no other Way to support the Truth of the one, but by destroying that of the other.

HE begins then with one of the strongest of them, that published at Paris by Mr. Lewis Innes; and, tho' there was never an Instrument, whose Genuineness was better attested and verified than it; yet he turns himself into all Shapes, and runs through all the Topicks he could possibly invent, in order to prove it a plain Forgery. But how well he has succeeded, will appear as we go along with him. He has not seen, it seems, the first Edition of that Charter, published by Mr. Innes himself, but only that which F. Mabillon has inserted in the Supplement of his great Work, de re diplomatica. But as there is no Difference between the two Copies, it comes to the same Purpose which of them we hold by.

Our Author, after he has given us a Transcript of that Charter, p. 82-85, and the invincible Inference which I bring from it, especially in my last Words, which yet he has here omitted, viz. Unde totius bujus fabula machinationem corruere funditus ac everti necesse est; runs out into a long Digression for fix or seven Pages together, containing nothing but bitter Invectives and Railings, against Father Innes, Queen Mary, James VI. and VII. the Pretender; and whom not? But to what End and Purpose is all this? Let all that he has vented against those Persons (towards some of whom their high Dignity might have required more civil Usage) be true; let them have been as bad as he has represented them, and (if possible) a thoufand Times worse: Yet what can that signify to overthrow the Credit of a Charter, that was written near 200 Years before the oldest of them was born? If it is a Forgery, none of them (unless he will say Mr.

Mr. Innes) had any Hand in it. And if it is genuine, their after-Wickedness cannot make it otherwife. The usual Method of Orators was, captare benevolentiam auditorum, to conciliate a favourable Audience from them they spoke to: But he takes another Way, which is, captare malevolentiam of his Readers, and to prepare them for having a bad Opinion of those he is to argue against. But he must have a very mean Thought of his Readers, if he supposes that such Invectives as these, which have not the leaft Connexion with the Genuineness or Forgery of that Charter, could pave the Way to their Belief of what he after advances upon that Head; unless he will have them to be fo stupid, or so unreasonable, as to say with the Wolf in the Fable, That the Lamb's drinking in the River below, could trouble or make muddy the Water that flowed above valg about mintage roll soft

I pals over that most spiteful Admonition, our Author here, p. 88. brings in of Spotiswood the Superintendent, (which nothing but his Ignorance of the true Matter of Fact, and the Madnels of these Times can excuse) thundred out against our Queen Mary, and is recorded after Calderwood by Bishop Keith: And yet, for as fond as our Author feems to be of the Tale, he will hardly allow Mr. Keith the Relater the Name of Bishop; because, forsooth, he has not been authorized by his Church Rulers. What is become then of the intrinsick Power claim'd by most Churches, and by none more than the Presbyterian? For if that be allow'd, I know not why Mr. Keith may not have as good (if not a better) Cc2

a) luttodudion, p. ec.

Right to be called a Bishop, as he and his Brethren have to be called Ministers or Pastors.

In this Digression of his, he takes it very ill, p. 89, that the Earl of Murray should be thought to have been aiming at the Crown; and that our Buchanan, in his History, should seem to favour such a Design; And thinks that a Proclamation of Queen Elizabeth, the most part of which he fets down, is sufficient to vindicate both that Earl and Buchanan from having any fuch Views, But, I hope, I may be allowed to fay, that notwithstanding all the glorious Things that are recorded of that famous Queen, she was, as Rapin (who is, with too many, thought an Oracle for English History) himself owns, a great Dissembler; and it can particularly be prov'd, from Writings of as good Authority as is that her Proclamation, that The for certain Ends play'd Booty, and that what the there advances was not agreeable to Truth and her other Behaviour in that Affair. What he fays for Buchanan, I have considered above, p. 76, 60.

Our Author, after these his idle Digressions, proceeds in p. 92. to give us the History of that Charter of Robert II. as it is related in Mr. Inner's Presage to it. And then he adds, if That Mr. Sage (z), to support that Narration, brings in Sir

James Dalrymple, saying in his Preface, p. 36.
That he has seen this Charter verbatim, as it is

published by our Countrymen in France, in the Extracts out of two Register-Books of the Bishop.

" rick of Glafgow, taken from these Records in

the Year 1556, fome Years before they were

<sup>(2)</sup> Introduction, p. 40.

" carried to Paris, at the Reformation." Our Author owns that these are Sir James's Words; But then, fays he, Mr. Innes's Account does " not agree with Sir James's; for Mr. Innes fays, If That the Charter was produced, and seen with the Seals appended to it by learned Antiquaries. and the chief of the Nobility affembled in the " Royal Abbacy of St. Germans a Pratis. But a "Charter with the Seals is not, as I conceive, " (continues our Author) to be found in a publick "Register: But Sir James says, he saw the Ex-" tracts taken out of the Register Books, and that " the Extracts were taken out of the Books before "they were carried to Paris. He does not fay, " that the original Charters were carried to Paris, but the Register-Books; and the Prefator fave. That Beaton brought the acta & instrumenta Ec-" clesiæ suæ over with him; and Mr. Innes says, " he produced the Charters themselves, but he "does not fay he produced the Register-Books." " Mr. Sage (a), when he is giving the Hiftory " of the Charter, as I conceive (ftill adds our " Author) from the Preface, speaks of divers of " riginal Charters carried into France: But he im-" poses on his Readers; for the Words of the Pre-" face are, acta & instrumenta Ecclesia sue, which " do not fignify original Charters, but Registers or Records of the Archbishop's Church. My Reader " (be concludes) must now perceive, that the Prefacer, Sir James and Mr. Suge are not confift-" ent, or at least they have so entangled this Mat-" ter, that I despair of seeing it adjusted." Copress WHAT

(#) Pag. ros. lin. r.

WHAT strange Work have we here? Does he understand himself? Or has he not rather in this long Rhapfody wilfully defign'd to bewilder and perplex his Reader? For, otherwise, what are said by these three Authors, are not only plain and obvious to the meanest Capacity, but are as consistent together as any things in the World can poffibly be. Mr. Innes fays that Archbishop Beaton carried away with him to Paris, acta & instrumenta Ecclesia sua, i. e. the original Charters, Regifter-Books, and other Writs belonging to his Church; Mr. Sage repeats only what Mr. Innes had said; Sir Fames Dalrymple says, that he saw some Extracts taken out of these Register-Books, before they were carried to Paris. Mr. Sage does not fay that he faw any of them, either Originals or Extracts; Sir Fames fays only that he faw thefe Extracts: Where is the Inconsistency in all this? Yes, our Author at last has found it out, and it lights upon Mr. Sage, who calls thefe acta & in-Arumenta Ecclesia sua, original Charters, but thereby imposes upon bis Readers; for, fays our Author, these Words do not signify original Charters, but only Registers or Records of them. But, as our Author remits his Reader sometimes to Lexicographers (b), I would ask him in what Lexicon he found acta & instrumenta to fignify only Registers or Records, and not the Originals from which they are taken. For in all the Lexicons and Books that I have read, the last of these is hardly ever' wied for any other than the Originals, and the first most frequently for Originals, as well as registred WHAT Copies

<sup>(</sup>b) Pag. 105. lin. 1.

Copies of them. Both belonged to the Church of Glasgow; and it is not to be thought that Archbishop Beaton would carry off the one, and leave the other, and these the most valuable, behind him. Mr. Innes certainly meant both: The three he has given us in his Treatise, are (as appears by the Seals) certainly Originals, and particularly that attested by the Parisian Antiquaries: And no doubt there are a great many more of that Kind, still extant, in the Repositories of that College. If what I have said will not disentangle and adjust the Matter, I will in my turn despair of being able to adjust or clear up any thing in the World.

I know not when I shall have done, if I take notice of all the Escapes which our Rev. Author salls into. For, p. 94. mentioning two other Charters, the one of Robert II. and the other of John his Son, which are not only spoken of, (as our Author says) but subjoined by Mr. Innes to that Charta authentica, he has almost as many Errors

as Lines. For,

1. He says, that the first of these has four Seals appended to it. Who ever heard or saw the Deed of one Person, in those Days, have more than one Seal appended to it? He takes the Counter or Back-seal for a distinct Seal by itself: But, tho' that has a different Figure and sometimes Inscription from the Fore-seal, yet they are always consider'd as but Parts of one and the same Seal (c). 'Tis true, that in more ancient Times, besides the Great Seal, Kings and other great Men appended on the same Label a smaller Seal, which was called Sigillum secretics.

<sup>(</sup>c) See my Preface to Mr. Anderson's Diplomata, p. 46.

creti: But that was gone into Disuse long before

Robert II.'s Reign.

2. HE tells us, "there are two Seals of Robert with this Inscription, Robertus Dei gratia
"Rex Scotorum." But our Author might have seen,
by their being linked together in the Draught of
them on Paper, that they compose but one Seal,
one Side being the Fore-part, the other the Reverse
or Counter-Seal.

third, fince he has only mentioned one Charter before? But probably he means what he calls the third Seal of the first Charter.] "has this Inscription, Sanctus Kentegernus, and Kentegerne,
tuos benedic, pater alme, ministros. This, says
he, is the Seal of the Bishop of Glasgow. The
fourth, he adds, has this Inscription, Ecclesia
Glasguensis S. Capituli." [He has inverted the
Words, for he should have said, S. (or Sigillum)
capituli Ecclesia Glasguensis.] How he understood
it I know not; but some Readers will be apt to
think he took it for, The Church of Glasgow of
Saint Capitulus. But,

4. This is but one Seal, as appears by the joining, and is the Seal of the Chapter, not of the Bishop. For the both might perhaps have one Reverse or Counter-Seal, yet that of the Bishop would have his Name, and perhaps his Arms, or some other Distinction upon it. To be sure it would not have born for its Inscription, the Seal of the Chapter of the Church of Glasgow: For Bishops had always one Seal, and their Chapters and

Secury Proface and Lander by a Dielomann, g. and

other.

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5. HE fays, " That Charter mentions the Seal of the King's Son, and the Seal of one Gilbert Kennedy Knight, but their Seals are not append-" ed." But had he with the least Attention confidered this Charter, which is a Deed of a Foundation of a Chapel at Maybole, with three Chaplains, and one Clerk above them, to officiate in it, founded by Sir John Kennedy of Dunonure Knight, he would have perceived that this his Remark is quite out of Purpose. The Remains of this Chapel, which is called the College, is to be seen at Maybole to this Day. By the Tenor of that Charter it is provided, "That there should " be two original Duplicates, to each of which " were to be appended four Seals; one of him-" felf Sir John the Founder; another of his Son " and Heir Sir Gilbert, (whose Assent was thought " necessary;) athird of Walter the Bishop, and a " fourth of the Chapter of Glasgow, by whose Au-" thority all was done." Here we have four Parties concerned, and accordingly four Seals appended to each Duplicate. Again, in the faid Deed it is provided, "That one of these two original Duplicates " should remain with the Chapter of Glasgow, and " the other with the Chaplains of the Chapel which " Sir John had founded." Again, of these there were to be "Four Confirmations, two of John Steward of Scotland and Earl of Carrick, the King's first " born and Heir, in whose Territory, as Earl of " Carrick, that Chapel at Maybole was to be " founded; and other two of the King himself, " paramount Superior of all." Of these two, "One of the Earl, and another of the King, were to " remain with the Chapter of Glafgow; and other

( 218 ) "two with the said Chaplains." Now of all these fix Charters, Mr. Innes has only exhibited two of the confirmatory ones. The first is that of the King, with his Seal appended; to which, (as it was one of these that were to remain with the Chaplains) the Chapter of Glasgow have afterwards appended their Seal. For it is not to be thought, that the King would have a Hand in appending any Seal to it but his own. The other confirmatory Charter is that of John Earl of Carrick, which having only his own Seal, it cannot be known whether it is that which was to remain with the Chaplains, or with the Chapter of Glafgow, But to none of them would Sir John Kennedy's Seal be appended; for they are only Confirmations of the Deed to which he and the others above-mentioned had appended their Seals before. And as little could the King's Son append his Seal to his Father's Confirmation; for he was likewife to give a feparate Confirmation by himfelf. It was idle therefore, in Mr. Logan to expect any other Seals to these

6. He says, "That it is dated at Dunnonoir the penult Day of November 1371: But (be adds) it would seem that this Charter was afterwards manufactured; for, as to this Date, there are no Witnesses, but the Witnesses are mentioned with respect to another Date and Place, viz. Dundonewald, the fourth Day of December, the first "Year of our Reign." What strange Confusion here? The Author has not adverted, that this Charter of the King is, as I said, a confirmatory one of a Charter of Sir John Kennedy, the Nature of which is, to ingross the Charter confirmed

two Deeds, than what are really at them.

at full length in its Bosom. So that here we have upon the Matter two Charters, the one inclosed within the other, which our Author not heeding has confounded, as if one and the same Person spoke through the whole. And 'tis the more furprising that Mr. Logan should mistake this, when in the Copy which he has feen in Mabillon, that which is spoken by Sir John is distinguished by Quotations from that which is spoken by the King. The King begins, Robertus Dei gratia, &c. and goes on to intellexisse ad plenum in bac verba. Then follows Sir John's Charter, Universis ad quos prasentes litera pervenerint, Johannes Kenedy Dominus de Dunonir- salutem, &c. At the End of which the King resumes the Discourse, Quas quidem fundationem & dotationem, &c. How then can Mr. Logan fay this Charter has been manufactured, in that (as he fancies) it differs from itself, as having two different Dates, and that to the first there are no Witnesses, but to the second, there are Witnesses, but they do not subscribe. But these idle Notions quite evanish, when we consider that here are, as I said, upon the Matter two Charters, the one reciting what was in the other. That of Sir John (as it naturally ought) was prior in Time, and is accordingly dated penult. Novemb. that of the King (as it could not readily be otherwife, fince it confirms that of Sir Fohn) is of a posterior Date, viz. fourth Decemb. i. e. five Days after the other. The same is to be said of the Places; that of Sir John, at his own House of Dunnure, that of the King at his own House or Palace of Dundonald. At to the Witnesses, Sir John's Deed needed none, there being so many concerned D d 2 that edi

that joined with him in it, viz. his Son Sir Gilbert, and the Bishop and Chapter of Glasgow, who, by the two original Duplicates, and the four Seals appended to each of them, were as good as Witnesses to one another. But the King's Charter, as being his own proper Deed only, required Witnesses; as then was, and has ever since been the Custom of our Kings. But that the Witnesses inserted in the Body of a Charter did subscribe their Names to it, is a thing generally unknown in Scot-

33.5 33.5

land to this Day.

7. Our Author Says, " That King Robert, fpeaking of himfelf, changes the Number, scia-" tis nos; afterward, figillum meum; and then again, regni nostri." I might answer first, That that is not to abfurd as he would have it feem; for that Way of speaking is very usual with the best Authors. But 2dly, That is far from being the Case here: King Robert all along in his Part of the Charter uses the plural Number, sciatis nos,de mandato nostro, pro nobis, carta nostra, figillum nostrum, - regni nostri, &c. But the sigil-Jum meum (which our Author by a strange Oscitancy attributes to the King) are the Words of Sir John Kennedy, who all along, as became him, uses the Singular, notum facto, quod ego, idcirco ego, pro me, beredibus meis, terris me. 4s, - obligo me, - beredes meos, - bona mea, - terras meas, - pro me - Domini mei, - subjiciens me; and, to pass others, this sigillum meum: Which is the more inexcufeable in our Author to afcribe to the King, that it immediately follows, und cum sigillo D. Gilberti Kenedy filii mei & beredis. Will our Author fay, that this young Sir Gilbert Kennedy was the

the King's Son and Heir? Did our Author here impose upon himself, or did he design to impose upon others?

thor adds, "That in speaking of the Seals, that of "Gilbert [he should have said John] Kennedy is mentioned before that of his Son and Heir." This sigillum meum (which before he would have to be the King's) is now the Seal of this Sir John: And will he think it improper that it should be mentioned before the Seal of the Son, Sir Gilbert?

9. He adds, "And afterwards he [i. e. the fame young Sir Gilbert, of whom he speaks immediately before] is called his first begotten and "Earl of Carrick, adding, which might be, and "yet he be a Bastard." According to our Author, the Forgers of this Charter (for forged he will have it to be) were the most stupid Creatures that ever God made, who, with the same Breath, should call young Sir Gilbert, the Son and Heir of his Father Sir John, and at the same Time, the King's first begotten and Earl of Carrick. Such monstrous Blunders, even in forged Charters, were never yet seen or heard of.

pears by what follows; For, (fays he) this, viz. his being called first-begotten, might be, and he yet be a Bastard. I cannot think that our Author intended to bastardize young Sir Gibert Kennedy, especially as his Father calls him not only his Son, but his Heir. By this first begotten then, our Author must mean King Robert II.'s Son, afterwards Robert III. I own that his being called his Father's first begotten does not necessarily infer, that he was

his Father's lawful Son; tho' that Designation is never that I know of in a publick Instrument, given to a Bastard : But I can hardly think that the Earl of Douglas and the Lord High Chancellor of Scotland would have taken it well to have a Bastard named before them, as they are here among the Withesses to this Charter. But how came this Person by the Title of Steward of Scotland? for that (after the Father had divested himself of it, now being King) could not properly belong to him, who was yet, according to our Author, a Bastard, but to the King's eldest lawful Son, David Earl of Strathern, by Eupheme Ross, who was then alive, and, according to our Author, and his Historians, was Robert II's first Wife. I cannot therefore, for my Heart, help thinking, that as our Author speaks of Manufacture in this Charter, he has, in these Arguments he brings to prove it a Forgery, used too much of that Art himself; especially in this last, where to make it Nonsense, he skips over twenty Lines, that he might make this Gilbert Kennedy to be the King's first begotten, when it is selfevident that this Sir Gilbert Kennedy the Son is not fo much as mentioned in that Part of the Charter, which is properly the King's. Can there be any thing more furprising, than to find our Author concluding all that he had faid, with this bold Epiphonema? "In fine, says be, there are so ma-"ny Blunders in this Charter, that it can merit "no Manner of Credit." But I leave it to any Man that understands Charters, to judge, after what I have said, to whom these pretended Blunders are to be imputed. I have shewed what he ascribes to it are no Blunders: And if he will needs blunder cid ID

in making groundless Attacks upon it, let the Blame ly where it doubt an last out al

HE next proceeds in p. 95 to the other Charter, viz. that granted by John Earl of Carrick, &c. and here hearretches his Wits to find leveral Marks of Forgery in it; as he had done in the former And I 1. H & favs will mentions feveral Witnesses Tobaris hibleribed by none of them! It is strange! our Author Thould fo often mention this : He has certainly feen Mr. Anderson's Diplomata Scotie, (for he oftner than once cites my Preface to sie !) In he we have Specimens of our King's Charters. and those of other great Men, down from Duncan H. to Fames I. all taken from the Originals. But can he find there for much as one, that hath the Witnesses mentioned in them subscribing their Names? Or can be think, that If Mr. Ander fan had feen them there, he would have omitted them? Tis true, Duncan II.'s Charter hath Witnesses Names subscribed to it: But then these Withesses are not mentioned in the Charter itself, and the Subscriptions are not theirs, but the Writer's, all being done with the same Hand, as appears by ocular Inspection But that Custom it feems died with King Duncan, and was never in use afterwards. How then can Mr. Logan expect to find that in John's Charter, which is not to be found in any other; and which, if it were found, would give a very great Suspicion of its being a Forgery? 2. Our Author's fecond Objection feems at first to be of some Weight, viz. " That the Seal 15 appended to it has this Inscription, S. Johannis Senescalli Domini de Kyle, which, says be, is pretty fingular, fince in the Body of the Char-1901 Peerage of Scotland, p. 738

set The is designed by a higher Rank, wiz. Comes " de Carrick. In the Seal he is no more than Lord of Kyle in the Charter he is Earl of Cer-"rick." I own the Thing is not very common, but is far from being fingular. John all this Time had not got a new Seal, but contented himfelf with his old Seal when Lord of Kyle: And I believe many of our Nobility, for some Years after the Death of their Fathers, do to this Day follow his. Example: The Earl of Cromarty, p. 67. mentionsia Precept of Seifin, in favours of Muir of Rowallan's Son, by John's Father, King Robert H. given under his Signet at Dumfermling the last of February, and 23d Year of his Reign : And the Earl informs us, that in the Circumference of the Seal appended to that Precept, there appears yet visibly David Rex in plain Characters. If then King Robert II. could after fo long a Time make use of his Predecessor's Signet or Seal, can it he thought very fingular that his Son, though now advanced to a higher Rank, should make use of his own Seal which he had when Lord of Kyletics specially, if, according to Mr. Grawford (d), he was not created Earl of Carrick till the 29th of David II. i. e. two or three Years before the Date of this Charter? All our James's, from the first to the fifth, seem (as they are delineated in Mr. Anderson's Diplomata) to have used but one and the same Seal; the Identity of the Name not making any Alteration necessary. But I will tell our Author further, that during King George I.'s whole Reign, no other Cachet or Seal was used di Senetalli Donald de Kyle, which lays be, is

" prefix fingular, fines in the Body of the Char-

<sup>(</sup>d) Peerage of Scotland, p. 73.

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In the Signet office, but that of Queen Anne; and I am affured, that for a good Time after King George I's Accession, no other Great Seal for Scotland was used but that of the same Queen. This second Objection then will do the Earl of Carrick's Charter no Harm.

3. Bur his third Objection is a very formidable one, viz. " That John speaking of himself, calls "himself illustris comes de Carrick, i. e. the illu-" Strious Earl of Carrick?' This our Author exults upon : " For, fays be, this is so singular an E-" pithet assumed by the Granter of the Char-" ter, that he questions very much if its Parallel " can be shown. This alone (continues he) over-"throws the Credit of the Charter; and 'tis the "more remarkable, that the Parliament this very " same Year, when they are recognizing him, do " not give him this Epithet of illustris." This is a terrible Thruftyaim'd at the very jugulum caufe; and unless warded off, the Credit of this Charter is gone for ever. But how shall that be done? No otherwise, than by giving the first Words of the Charter itself, viz. Universis ad quorum notitiam prasentes litera pervenerint, Johannes primogenitus Roberti Dei gratia Regis Scottorum illu-Aris, Comes de Carrio, & Senescallus Scotie, falutem, &c. In which one would think that a Schoolboy could hardly mistake the Construction, and not fee that the Word illustris is of the Genitive Case, and to be joined with Regis, the next Word before it fave one; and not in the Nominative with Comes de Carric. If there was nothing elfe to have fet our Author right (if he did not purpose to go wrong,) the very Punctation of the Sentence might have

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have done it: For in all the three Copies I have feen of Mr. Innes's Charta authentica, &c. and particularly in that in F. Mabillon's Supple ment, whence our Author had it, there is a Comma or Distinction betwist illustris and Comes, as I have fet it down above. But he will allow me to ac quaint him further, that though Kings have, within these two or three last Centuries, assumed to themselves much more splendid and glorious Titles, yet illustris was the common Epithet that then and fome hundreds of Years before was given them. Of this I could produce innumerable Instances. Mr. Rymer's Acta publica, Du Mont's corps diplomatigue, and fuch like Collections are full of them. But because our Author does not seem to deal much in that kind of Books, I shall only mention those which he could not readily miss seeing. One is among Anderson's Diplomata Scotie, Plate XLIT. where Fobn Baliol, then King of Scotland, calls Philip le Bel, Regem Francorum illustrem. In another, Pl. XLIII. Sir William Wallace names himself, Custos regni Scotia, nomine praclari Principis Domini Johannis Dei gratia Regis Scottorum illustris. And in my Preface, p. 41. King Edward III. of England gives an Acquittance, David Dei gratia Regi Scottorum illustri. And in the Earl of Cromarty's Vindication, p. 35. this same Robert II. is by his Parliament stiled Rex Scotorum illustris. So likewise in Mr. Anderson's Essay of the Independency, Appen. No. xv. Richard I. of England, calls our King William the Lion, Rex Scotie illustris. And Numb. XVI. Henry III. of England, gives our Alexander III. the same Epithet; as also Numb xvII, xvIII, and xIX. And the

the same is given by the Governors of Scotland to Edward I. Numb. XXII. and by the Parliaments of Scotland, Anno 1315, and 1318, to King Robert I. Numb. XXIV. and XXV. If these will not convince our Author that illustris in that Charter belongs to Rex Scotorum, and not to Comes de Carric, I despair of doing any Good with him.

After our Author has, in his Opinion, beat this Charter of John Earl of Carrick out of the Field, he would have it, in the same Page, to be noticed, "That Sir James Dalrymple does not "say that he saw these two Charters among the "Extracts." Nery true, Sir James does not, nor could say it; for they are not there. These Extracts are a small Collection of about twelve or thirteen Sheets of Paper, and make but a small Part of the Register-books from which they are taken (e). But, because neither he nor I saw them, does it follow that Mr. Innes did not see, both their Originals, and probably also Copies of them, in these larger Registers that were carried to Parris?

It is pretty what he adds, ibid. "That Mr. "Ruddiman does not adduce them to support his "Cause: I apprehend, says he, that he has ob-

arce of it is invivable, and the Consinence of it

vocates Library, being gifted to it by that fine Gentleman and learned Antiquary Alexander Baillie of Caftlekery, in whose Hands Sir James has probably seen them. Its Title is in red Ink, Excerpta & exserpta ex duobis libris, pergameno scriptis, registrorum capituli Glasquensis, Anno Domini 1956, mense Octobri. And at the End it has these Words, Huc usque excerpta & exseripta, &c. as before, Anno Domini 1956, mense Octobri. And no body that sees it (as every one may) can doubt that it is wenten at the Time it bears.

" ferved the above mentioned Nullities? on In the two Notes I have on that Subject (f), as there was no proper Place for enlarging upon it, I thought it sufficient for me to point out in gene ral the Discoveries made by others, whom in the former Note I name, and refer my Readers to In the fegond Note I indeed mention only Mrs Innes's Charta authenties or first Chancer, as being the clearest and best attested Documencos all, for proving Robert III.'s Liegitimady But at the fame Time I can affore Mr. Logan, that I did not, nor yet can in the leaft doubt of the Genuineness of the rest produced by the Earl of Cromarty, Mr. Rymer, E. Hay, &c. all concurring to evince the fame Touth, As ofor the Nullivies he apprehends I may have observed in Mr. Inner's other two Charters, I declare Thave not been able to obt ferydawy. I That Discovery, it seems, has been left to Mr. Logan's more penetrating Eves. But he must keep these Nullities to himself . For by all that he has faid, he may as well bid me look through an unbor'd Milstone as to perceive them. He fays, "I lay great Stress upon that Charta " anthentica, or first Charter of Mr. Innes." So I do, fordoes Mr. Sage, (whose Words our Author gives us) with whom I confidently affirm, that the Force of it is invincible, and the Genuineness of it incontroulable. But (that he may not think that we are biassed in the Matter,) so thought, and so afferted one incomparably better skilled in our Antiquities and Histories, than either of us; I mean Sir James Daleymple, who, although, if he had any Biats of experience, see as before; some Demini 1411.

gan doabe that it does teen gaqibna une los seery one inc

Bites, it was on our Author's Side ; yet he had more Honesty and Ingentity than to deny a manifest Truth; and was fo far from calling in question the Authenticity of that Charter, that he does not fland (g) to call it the Height of Impudence in Mr. Atwood, to aver (as our Author also does here, and all along in other Places) that this Charter carries with it apparent Marks of Forgery, I will bluede

Our Author next spends a Page or two h telling us, that there have been many forged Charters, and in giving Instances of some of them. He and I both have spoke of this already; and it is again repeated here, with no other View than to prepare the Way for erecting that great Battery, whence he is to play off all the Artillery he can bring together, for demolishing that Charter when a

AND accordingly, notwithstanding what Sir James Dalrymple, in general, and I more particularly have faid to confute the Cavils of Mr. Atwood, against that Charter; yet our Author will needs bring them all into the Field again, and thinks that they, with some additional ones of his own, are good Grounds for holding this Charter to be spurious. Despites, ad or beer are ano acino

LET us go on then: In p. 98. he tells us, "That Mr. Atwood's first Observation is, that it bears a Dispensation for Robert Stewart to marry Elizabeth Muir, the Impediment of Confanguinity and Affinity notwithstanding." This he, i.e. Mr. Atwood, " judges not probable, and " our Author fays, he is much of the same Mind. For if, as he adds, both Confanguinity and Af which all the other ordinard flates which so ind man ven-

der a Marriago unlawind, are therein mentiones, and dupenfel (g) Preface to his Collections, p. 354

Schniby were in the Cafe, there would be the Moreater Difficulty of obtaining it, and the Price Would be very high, and not fuch a pitiful Penal 16 ty as to Merks Sterling, for founding and Sup-"porting one Chaplainry." Here, after bhis usual Manner, our Author discovers either great Ignorance, or great Diffimulation of Icam forry I should speak so, but I cannot possibly help it. For iff hie feems not to know the Nature of these Dispensations: For the Affinity is mentioned in this, as well as Confanguinity, yet, I believe, there was no Affinity in the Case, unless it was a Spiritual one; for to that also the Canon Law exs tends. But it is a common Thing in these Difpenfations; (tho' the Bar against a Marriage lay in Confanguinity only,) yet for the more Security, and to render the Dispensation absolutely effectual. to take in both (h): The same Way as Remissions are granted by our Kings, in which, tho' one Crime only is defigned to be pardoned, yet to cut off all Profesutions that may be raifed, and all Disabilities that may be incurred, all Kinds of Crimes, and some more atrocious than that particular one, are faid to be remitted. And this was off ar us go on then: In p. 98. he tells us,

4. That Mer. Atwood's first Observerion is, that

Queen Mary with Francis II, then Dauphin, afterwards King of France. They stood in the fourth Degree of Confanguinity to one another. On this a Dispensation from the Pope became necessary, of which we have a long Detail in a fine MS. of the Tratiez entre les Roys de France & d'Escosse, in the Advocates Library; and it is remarkable that tho, as I said, the Consanguinity was the only Impediment to the Marriage, yet Assault, and all the other ordinary Cases which could then render a Marriage unlawful, are therein mentioned, and dispensed with.

the more necessary in Dispensations at that Time. when by the Covetoulnels of the corrupt Church (or rather Court,) of Rome, the forbidden Degrees of Confanguinity and Affinity were carried (both in a natural and spiritual Relation) to no less than the seventh Degree: Which gave Occasion to innumerable Divorces (i) upon the most frivolous and unjust Pretences. This Evil had grown to fuch a monstrous Hight, that it was hard for Perfons to know, whether their Marriages were lawful or not, without a Dispensation; until some Popish Councils, and, as I am told, particularly that of Trent, the none of the best in many other Respects, thought fit in some Measure to reform the Abuse, and bring the forbidden Degrees to the four, at which they now stand in that Church,

2 dly, Our Author calls it a Penalty, which, for ought appears, was not true; for there is no Trefpals as yet faid to have been committed. The Dispensation bears, that it was super matrimonia contrabendo, and not contracto; which supposes the Parties as yet innocent, and that they only would have been guilty, if they had cohabited together as Man and Wife, without fuch a Dispensation.

But of this afterwards.

adly, Our Author calls ten Marks Sterling to be paid yearly, for the Maintenance of one Chaplain, e pitiful Sum. But in this our Author bewrays himself very ignorant of the Value of Money in those Days; for in the Account I have at great Attended to one to peak of the Difference of the

<sup>(</sup>i) I mean Dissolutions of former Marriages, and the con-cracting of new ones: For the Romish Church admits of no Divorce, unless when the Marriage either really is, or is pres rended to have been ab initio null and invalid.

Length, and with no small Pains, given of that Matter, in my Preface to Mr. Anderson's diplomata, 1,000 Cc. and particularly in Tab. 2. p. 81. he might have feen, that in the Year 1266, and 28th of King David II's Reign, two Years after the granting of this controverted Charter, a Mark Sterling contained upwards of half a Pound Weight, of as good Silver as is coined at this Day, of intrinsick Value: and consequently; that ten Marks Sterling were then of more intrinsick Value, than five Pounds. Weight are now. And feeing at prefent, out of one Pound Weight of Silver, is coined three Pounds Sterling, these ten Marks Sterling would then be of more intrinsick Value than fifteen Pounds Sterling are now. But then, if we consider the great Scarcity of Gold and Silver over all Europe in those Days, when the West-Indies were not then discovered, and Commerce with the East-Indies was hardly fet on Foot, we cannot but perceive, that a little Money would go much farther for purchafing all the Necessaries and Conveniencies of Life, than much greater Sums will do now. The very learned and ingenious Dr. Fleetwood, late Bishop of Ely, in a curious Treatise of his, which he calls Chronicum pretiosum, has demonstrated, that in the Time of Henry VI. of England, between the Year 1440 and 1460, i. e. aboout 80 Years after this, 5 Pounds Sterling was equivalent, for all the Uses of Life, to 25 Pounds Sterling in his Time, i. e. anno 1707, when his Book was printed. Atthis Rate, not to speak of the Difference of the Time, ten Marks Sterling would, at the granting of this Charter, have gone as far as fifty Marks Sterling, i. e. L. 33. 6. 8. of present English Mowanted to have been as initio and invalid.

ney would do now: Which is more than the Stipend of some Ministers in Scotland was in my Time, and of feveral hundreds in England at this Day. Tho' I could bring many other Documents to confirm this; I shall only mention one more, and that is of a like Foundation, (k) made by the renowned Thomas Randolph Earl of Murray, 16. May, anno 1328, i. e. 36 Years before this, in which he allows no more than L. 23: 13: 4, for the Mainte nance of five Chaplains in the Cathedral of Murray; which amounts to no more than feven Marks and fixteen Pence of yearly Income to each of them, but would according to the forelaid Table, (while little more than a Mark and a Half Sterhing was coined out of a Pound of Silver) have gone as far as about 33 1. Sterling would do now. After this I hope our Author will not call ten Marks Sterling a pitiful Sum in those Days.

What follows in our Author is very trifling, That fuch a pitiful Sum was unworthy to be exacted from the High Steward of Scotland, and apparent Heir of the Crown: When I have shew'd that a lesser was thought sufficient for the Maintenance of a Chaplain, by one of near as high Quality as

he was.

What he next adds is hardly tolerable, that it doth not appear, that of that Sum, small as he fancies it, Payment was ever made. What is that other than to say, that the High Steward of Scotland (after he had obtain d a great Favour from his Holiness, or the Bishop of Glasgow, and that at an easy Price too, as our Author supposes; and after F

<sup>(</sup>k) Vid. Prefat. ad Diplom. p. 41. not. [d].

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he had made an Assignation for the Payment of it, out of a far greater Sum due to him yearly by the Abbot and Convent of Holy-rood-house, from the Lands of the Carfe of Stirling; and finally, after he had, in case of Failure, subjected himself and his Heirs to be excommunicated by the Bilhop of Glasgow, which was a terrible thing in those Days,) was capable of committing fo great a Sacrilege, as to keep back what he had to folemnly bound himfelf to? Is this to be thought of the great Steward of Scotland, whose Ancestor had founded and endowed one of the richest Abbays in Scotland, I mean that of Paifley, to which that Family ever after continued to add new Instances of their Liberality? But our Author does not consider here, that by the Tenor of that Charter, the Payment was not to be made directly by the great Steward of Scotland himself, but by the Abbot and Convent of Holy-rood-house, he having transferr'd for that Purpose the Right he had to a far greater Sum (due by them to him) to the Bishop of Glasgow, with a Power to compel them to make good that yearly Payment. But our Author will fay, (as he does here and afterwards in p. 166.) That neither the Payment, nor the asking of Payment, has been instructed by any proper Voucber. What an extravagant Thought is this, as if all the Letters and Messages sent by the Bishops of Glasgow to the Abbot of Holy-rood-house, or to the High Steward of Scotland and his Successors, demanding Payment; or the Acquittances and Discharges of the Payment, should be preserv'd for near 400 Years backwards to this Day? If nothing less will fatisfy our Author than this, it will be impossible Of 114 Vid. Prafes, as Diplom p. et. note.

to prove that ever there were made any Donations to religious Houses in this Kingdom; for I extremely doubt if any Acquittances for the Payment of what was stipulated or granted by the first Do-

nors, are now to be found (1).

OUR Author next tells us, ibid. " That Robert " had not the Dispensation immediately from the " Pope, but from William Rae Bishop of Glas-" gow." And is not that the ordinary Way by which fuch Difpensations are granted? The Pope, for all his pretended Infallibility, can know nothing but as he is inform'd; and it is most probable, that as the Case was laid before his Holiness by that Bishop, so the Execution of his Orders was committed to him. The Charter expresly bears, that what the Bishop did was by Apostolieal, i. e. Papal Authority. For the' Bishops were fometimes allowed to grant Dispensations in some fingular Cases, yet generally the Popes reserved that Power in their own Hands, remitting, as I faid, the Execution of it to the Bishop of the Diocefs in which one or both of the Parties refided. Which seems to have been more necessary here, as a Condition is required on the Part of the High Steward, and the Dispensation was not to be granted, till a full Security is given for the Performance of the Condition.

F f 2

(1) What renders it almost impossible, that such Writs could be preserved, is, that these Church-Lands and Revenues have, by the Changes of Religion and otherwise, gone through such a Variety of Hands, and that the after or present Possessors, having the Property fully secured to them, by many repeated Charters since, would not be at the Pains to keep such loose Papers as were or could be of no manner of Use to them.

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He concludes this his first Observation with telling us, " What Difficulties King Henry VIII. of England met with, as to his Marriages, from the Church of Rame." But Henry VIII.'s Difpensations were of a very different Kind from this we are now upon. The Impediment put to the Steward's Marriage, was upon the Account of Confanguinity, and (if he will) Affinity. What that Confanguinity or Affinity was, does not appear. But by all that can be gathered from our Histories and Genealogies, he and his Spoule could not stand in a nearer Relation to one another than that of Coulin-Germans, who, by the Law of God and of all Protestant Countries, are allowed to marry together. But I have good Reason to believe, that their Relation was more remote, and that they were, at nearest, second or third Cousins; who by the Canon Law were prohibited to marry, but by a Dispensation (which in these remoter Degrees was easily obtain'd) such a Marriage became lawful. But Henry VIII.'s Marriages were of another Sort. The first Dispensation he got was to marry Arthur his Brother's Relict, by whom he had a Daughter, afterwards Queen Mary. But many Years after he, pretending a Scruple of Conscience, applied to the learned Men of the most famous Universities in Europe, and got their Judgment, that this his first Marriage was utterly unlawful, and fuch as no Pope could dispense with. He had before applied to the Pope for a Divorce from that his first Wife; but not being able, by the powerful. Opposition made against it by the Emperor and King of Spain, he had Recourse to his own Clergy, by whom he got the Divorce made Juo as were or could be of no manner of Ule to them.

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Clement VII. for a Dispensation; which indeed he obtain'd, but clogg'd with such Conditions as he could not get loose from. However, these things notwithstanding, he, within a few Years after, married Anne Bullen, Queen Elizabeth's Mother. But she, about three Years after, was condemn'd of Adultery, and a Divorce made effectual, by cutting off her Head, and declaring the Daughter a Bastard. Tho' there are strong Presumptions that this second Marriage was more incestuous than the first, it being thought that he had carnal Dealing with this his second Wise's Sister before (m). There is therefore no Comparison to be made betwixt Henry VIII.'s Marriages, and that of the Steward of Scotland.

Our Author in the same p. 98. mentions and adopts another Observation of Mr. Atwood, which turns entirely upon a very small typographical Error in the first Edition of the Earl of Cromarty's Vindication, p. 26. where, by an Oversight either

<sup>(</sup>m) The Words of the Pope's Dispensation are very remarkable, — Tibique licere, cum quacunque alia muliere, etfi illa talis sit, qua aliàs cum alio matrimonium contraxerit, dummodo illud carnali copulà non consummaverit; etiamsi tibi aliàs secundo vel remotiori gradu consanguinitatis, aut primo affinitatis, ex quocunque licito sen illicito eoitu conjuncta, dummodo relicta fratris tui non suerit. This Bull is dated 10 Kal. Jan. 1526. See it in Dr. Wilkins's Concilia Britannia, Vol. iii. p. 707. And from the Words of it, we see that Cardinal Pool, in his Book directed to Henry VIII. himself, Pro ecclesiastica libertatis desensione, lib. 3. sol. mihi 54. had but too just Ground to infer, that King Henry had, before his Marriage with Anne Bullen, had carnal Dealing with her Sister: Otherwise why should he have askt a Dispensation for marrying one that was related to him in the first Degree of Affinity?

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of the Earl himself, or his Printer, the Charter of King David II. in favours of the Bishops, is faid to be granted 37 Years before the Death of Eupheme Ross, when he should have said 17 Years. This Error Mr. Atwood (though he might otherwise have discovered it to be an Error, as I Thew in the Preface to the Diplomata, p. 42.) catches hold of: And, because that would bring King David's Charter back to the Year 1350, between which and the Year 1387 (wherein Queen Eupheme is in all the Copies of Fordon faid to have died) are just thirty seven Years, he thinks he has got an invincible Proof of the Spuriousness of the Charta authentica, or Paristan Charter, as he calls it. For in it, dated in the Year 1264, John (the Steward of Scotland's First-born and Heir) is named only Lord of Kyle; and yet in David's Charter, which by that Error in the Earl's Vindication, must have been granted Anno. 1350, i. e. fourteen Years before, he is stil'd Earl of Carrick: And 'tis abfurd, fays Mr. Atwood (and in this indeed I agree with him) that he that had a higher Title in the Year 1350, Should be brought down to a lower, fourteen Years after. From this we see, what a mighty Superstructure Mr. Atwood raifes, on that small Mistake of one Figure, 3 for 1, or 37 for 17. And tho' some Excuses might be made for Mr. Atwood, (who still I believe dealt deceitfully in the Matter) yet how utterly inexcusable is our Author, who will still infift upon it here? And the afterwards, p. 166 & fegg. he owns that Mr. Sage had observed that Error, and that the Earl himself has corrected it in his fecond Edition, and that Mr. Ruddior hand to served fruit out at and or hander of man

man has demonstrated it to be an Error, and that that Charter of King David was granted in the Year 1370 or 1371, yet he will not retract what he has said, but instead of that runs out into idle Digressions and Quibblings about other things with

which this has no manner of Connexion.

Among his other Shufflings this is one, p. 99. My Lord Tarbat, fays he, in the second Edition of his Vindication, gives us the Charter itself, p. 53 \_\_\_\_ 55. as if my. Lord had not given it in his first Edition, p. 24-26. And does he not in that second Edition, p. 56. l. 1. correct the Error that had escaped him or his Printer in the first? This our Author resolved not to see; but instead thereof he tells us, " That Sir James Dalrymple " (n) attempts to make a Reply: He says, That Mr. Atwood discovers gross Ignarance, when he of speaks of a Charter granted by King David anna " 1350; for at that Time King David, being a Prisoner in England, granted no Charter: But " if this be Fact, fays our Author, the gross Ignorance is not to be charged on Mr. Atwood, but " on the Lord Tarbat, afterwards created Earl of " Cromarty." Had the Earl of Cromarty faid directly, that that Charter was granted in the Year 1350, Mr. Atwood might have had some Ground for what he advances: But fince all he fays turns upon as small a typographical Error as can readily happen in Printing; and that he himself might have feen it to be an Error, by what is faid by the Earl himself, about seven or eight Lines before he comes to the Charter, I do not see how he can be innoand tago, and in which John is

<sup>(</sup>n) Preface to Collect. p. 36

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cent; especially as he could not but know, from his own Histories, that King David was a close Prisoner in the Tower of London that Year, and consequently could not, as Sir James says, then grant any Charters. But our Author passes all Bounds, who, after the Error has been discover and corrected, and the Date of it proved to have been no sooner than the Year 1370, will still draw

it back to the Year 1350.

But here I would ask him, Whether he believes this Charter of King David to be genuine, or spurious? If genuine, and written in the Year 1350, then we have here a very clear Proof, that twenty Years before Robert II. came to the Crown, John his Son is owned by King David to be his Father's First-begotten and Heir, and consequently of a lawful Marriage. If fourious, why all this Bustle about it? Can a spurious or forged Charter be a proper Medium for proving another Charter to be spurious? Or can one Falshood prove another Thing to be false? And yet this is the Way both Mr. Atwood and our Author go to Work. If this Charter of King David is brought as a Proof of Robert III.'s Legitimacy, then it is spurious. But if the Credit of another Charter, proving the same thing, is to be overturn'd, then it is genuine. Thus our Author, . 114. fays expresly, that the calling John Lord of Kyle in the Charter 1364, is by itself sufficient to shew that it is a Forgery. But how is that sufficient, unless King David's Charter, which (according to our Author) was written fourteen Years before, i. e. Anno 1350, and in which John is dignified with the Title of Earl of Carrick, is genuine !

nuine? Again, both here, and in p. 126. he rejects a Charter of Robert Steward of Scotland, 2d July 1361, recorded by the Earl of Cromarty, p. 49, 501 of his second Edition, and p. 21, 22. of the first Edition, for no other Reason, but because in it John his First-born is fil'd Lord of Kyle: Which he will have to be inconfiftent with King David's Charter. But how can that be, if David's Charter itself is not a true and authentick Deed? But further, in p. 100. Our Author struggles hard to make that Charter of King David genuine, and that it was written Anno 1350. For, fays he, " How is Sir James Dalrymple fure, that King David, " when a Prisoner in England, granted no Charter? His being long there was no Hindrance "During this Time he fent many Meffages and Letters to Scotland, that the Ranfom agreed " upon for his Liberation might be paid up (a). " See Rymer's Fudera. And with thefe the Chare ter might be fent. Nay, adds he, Mr. Rymer, Len. p. 16. affures me, that an Agreement was " concluded, for David to go to Bcotland, Anne " 1351. and at this Time he might have of granted this Charter ? What can a Man far more to justify the Truth of this Charter of King David? But this, upon Supposition that it was granted in the Year 1350: Otherwife, with our Author, it is good for nothing, and is (as we shall Bign, i.e. in the Learn Bg, two Lears after his

<sup>(0)</sup> Our Author is a bad Chronologer; for the Ransom for King David's Liberation was not agreed upon, till the 26th September 1357, and the first Payment to be made on the 24th June 1358, i. a. about eight Years after 1350, in which be would have David to have granted that Charter. He bids a see Rymer's Fædera; so do I bid him, have on the control of the control of

fee afterwards) as spurious as any of the rest. But might I not here invert our Author's Argument, by producing several Charters extant in the publick Records, posterior to the Year 1350, in which John, Robert's First-begotten, is design'd Lord of Kyle; which renders it utterly incredible, that the Charter in which he is honoured with the Title of Earl of Carrick, could be written in the Year 1350? As to David's writing Charters when he was a Prisoner in England, I shall believe it, when I fee one Charter granted by a captive King. Besides, here there was no Occasion for it, since David's Nephew, the Steward of Scotland, was then Governor of the Kingdom, and might have emitted Charters in his Name of Tis true, we have no Charters, that I know of, granted either by King David, or Robert Stewart then Regent, during the eleven Years of that King's Captivity. But during our James I.'s Captivity, we have a good Number granted by Robert and Murdo, Dukes of Albany, then Regents; but none by the King himself, till his Releasement (p). We have in the Earl of Haddington's Collections, a Charter of Duncan Earl of Fife, dated at Lindares 27th March this Year 1350, wherein, among the Witnesses, is named Lord Robert Stewart, tunc temporis regni custos: But this Charter is not confirmed by King David till the 30th Year of his Reign, i.e. in the Year 1359, two Years after his Libe-

<sup>(</sup>p) There is indeed a Deed of that King among Mr. Anderfen's Diplomata, confirming to William Douglas of Drumlanrig the Lands he was possest of: But that is not a formal Charter, but rather a Promise of causing such a Confirmation to be granted under the Great Seal afterwards.

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Liberation, and nine after that of the Earl of Fife's Charter. But the best of all is, that David being allowed to come to Scotland towards the End of the Year 1351, he might, says our Author, grant this Charter at this Time, viz. in the Year 1350, i.e. he might be both in Scotland and England at the same time. If so, the Popish Doctrine of Transubstantiation is not so hard to be believed as some imagine!

Our Author's third Observation, p. 100, is, "That those who build upon this Charter, mean-" ing the charta authentica 1364, have never been " able to document the Degree of Confanguinity " and Affinity, betwixt Robert II. and Elizabeth " Muir, which required a Dispensation to make " their Marriage lawful." This is likewise Mr. Atwood's third Argument, which our Author repeats, and infifts upon more fully, p, 165. where he tells us, " Mr. Ruddiman fays, That this Ar-" gument deserves not an Answer; and, be adds, " indeed the Answer he gives is not a worthy An-" fwer, but a pure Evasion. By this Reasoning " (fays he, i. e. Mr. Ruddiman) it will follow that " whatever was kept secret from that noble Lord, " or any other, for 200 Years, must therefore be " held to be a Falshood. Mr. Ruddiman, continues " our Author, I am convinced, would be per-" fwaded of the Infufficiency of this Reply, by " reading p. 98, \_\_\_\_\_ 101. and some other Pages " of this Treatife." Strange! that our Author should think that the reading of a few Pages of his Book, should convince me of a thing, which all the Books in the World shall not convince me of, till I have first lost all my Senses. Could the Earl G g 2 ded to rould () of

of Cromatty, or can any Man living know, or by Search discover, a Matter of Fact, and all the Circumstances of it, that happened long ago, any further than they are handed down and related by those that lived before? The Charter expresty mentions, that there was a certain Degree of Con-Sanguinity betwixt Robert II. and Elizabeth More, which put an Obstacle to their Marriage, and needed a Dispensation to remove it. But since neither that Charter, nor any other Writings inform us, wherein that Confanguinity lay, how is it possible now to know it. People may make Conjectures about it, as Mr. Crawford has done (9), but our Author rejects it for that very Reason, p. 101. How many are there in the World, who assuredly know that fuch and fuch Persons are related to them, and yet do not know the Particulars of that Relation & Will their Ignorance of the one destroy their Knowledge of the other? But; to convince our Author how sufficient my above Reply was, and how infufficient his Duply to it is, I will give him two Examples, which I hope he will not oppose. We are told in the Book of Ruth, that Boaz, and another, who is not fo much as named, were near Kinsmen to Ruth, or rather to her deceased Husband Mahlon: But no mention is made of the particular Relation in which they stood the one to the other; will it therefore follow, that, because that is not recorded, what is faid of their Confanguinity is not true? Again, in the Gospel of Luke, does not an Angel call Elizabeth the Mother of S. John Baptist, Cousin to the bleffed Virgin Ma-! whooks in the World thall not convince me of

all I have first lost all my Son as. Could the Ear

<sup>(9)</sup> History of the Family of Stewart, p. 17.

or any other Divine, to assign the State or Degree of that Relation, will he therefore dare to give the Angel the Lie? By our Author's Way of Reasoning we shall know nothing, unless we know every thing. He seems to be much in the Humour of the Emperor Tiberius, who, as Sueton informs us (r), used to teaze the Grammanians of his Time with such Questions as these: Who was Hecuba's Mother? What Name Achilles took when he different used to sing? and the like; and then mockt them when they could not answer him.

WELL, but fays he, (s) " I would fain know " from Mr. Ruddiman, how it came about that " the Charter was kept and registred in the " Archives of the See of Glasgow, and not "the Pope's Bull? This was more proper " to be preserv'd in the Episcopal Register, or "kept among the Archives of that See. Had this " been started to the Earl of Cromarty, Mr. Sage and Mr. Rymer, they no doubt would have gi-" ven their Conjectures how this came about." As these learned Men were not obliged to answer every idle Question, or to remove Difficulties till they were started, I, it seems, am called upon to do it for them. To please our Author therefore, I reply in a few Words, by asking the like Questions at him: How knows he, but that both the Original of that Bull, and a Transcript of it in the Register books of Glasgow, are yet preserved in the Scots College at Paris? Nothing I am fure is told mid There was no Dancer on that

<sup>(</sup>r) In Tiberio, cap. 7.1

<sup>(</sup>s) Ead. p. 165.

him to the contrary. But what if that Bull is loft, as thousands I am fure are? Will it therefore follow, that a Charter founded upon it, and attefted to be genuine by some of the best Judges in the World, is not true? I know not how far this Argument of our Author will carry us: For if it is just, I am dreadfully afraid that the greater Part of the landed Gentlemen in Scotland will lose their Estates. Their Rights to them were at first founded upon ancient Grants and other Writs made some hundreds of Years ago, of which a great many of the Originals are now no where to be found. But what if that Pope's Bull should be produced, either from these Archives, or the Bullarium Romanum? And if it should, I know not but our Author will pretend to find as many Marks of Forgery in it, as in Robert's Charter, and that the best Way to save it from his Criticisms, is to keep it out of his Sight. Or, I know not, but as he puts us upon his questionary Trial, he may not ask us. upon what Calf's Skin that Bull was written? of what Breed he was? who was the Person that brought the Bull from Rome? and what Reward he got for his Pains?

But how comes our Author to fay that the Pope's Bull was more proper to be preserved in the Episcopal Register, than the Steward's Charter? The Pope's Bull was only the Commission given to the Bishop to do what he did; and when that was executed, there was no more Use for it. Was the Bishop asraid, that if it had been lost, the Pope would have taken him to Task for it? There was no Danger on that Head, especially as all such Bulls were duly recorded in the Bul-

ferved in it to this Day. But the Steward's Charter was necessary to be kept, since it was all the Security the Bishop had for an annual Payment to be made to one of his Chaplains for ever.

Our Author proceeds next, p. 101. to give what he calls his own critical Remarks upon the Charter. And his first is, " That both Consan-" guinity and Affinity are mentioned as a Cause of asking the Dispensation (impedimento con-" Sanguinitatis & affinitatis) which Mr. Sage "thinking odd, has translated the Conjunction " [and ] by the disjunctive Particle [or]." This was certainly a very great Fault in Mr. Sage, to put down or for et! But I can shew our Author innummerable Instances where et is taken for aut or vel; and, vice versa, where aut and vel fignify the same thing with et (t). And so may they be taken here, as Mr. Sage has rendered it? That the Impediment was on the Account of that of Confanguinity, or that of Affinity, or both. Whether he meant them in a disjunctive Sense, I know not; though I believe that the Impediment lay only in the Confanguinity, and not in the Affinity, of the Parties, for the Reason I have given above, p.1222.2 (u) of side tol but ; stel the tol somis

I pass over what our Author objects, p. 101—104. to the Reasons which the Earl of Cromarty, Mr. Crawford, and Mr. Sage found upon, to make the Consanguinity between Robert II. and Eliza-

<sup>(</sup>t) See Strauchii Lexicon particularum juris.

Treatise shew, that there could be no Affinity between them that could hinder their Marriage, unless it was a spiritual one.

beth More to feem at least probable. For if our Author can get over the Evidence brought for it from a well attested original Deed, it is not to be expected that Probabilities and Conjectures will be made to one of his Chaplains for mid noqu nieg

P. 104. He takes notice, of That Mr. Sage had observed (n), That it is most clearly and emphatically imported, in the Chanter, that the Difpenfation was obtained, nay that Elizabeth was dead; some considerable Time before it was granted. And " that the Earl of Cromarty informs us, That " before it was granted, there was a prior Obligation to mortify a Chaplainry in the Kirk of Glaf-4 gow, and the Charter was an Implement of that "briar Obligation." And whois there, that reads the Words of the Charter with the smallest Attention, that will not clearly fee all this? "Buty fuys our Author, the Words of the Charter [ Cum dudum venerabili patri Wallelma Dei gratia Epif-44 copo Glafquensi fuerit per literas Apostolicas " specialiter delegatum] leaves us at a great Un-"certainty as to the Time when the Power was "delegated, because of the several Significations of the Word dudum; fometimes it is used for a " great while fince, or a good while ago, and fomes " times for but late; and for this he bids us fee " the Lexicographers." Tis very true, that the Word dudum is afed in both these Senses: And. if we will believe Servius or Taubman, on that of Virgil (y) - Jamdudum (or jam dudum) sumite perwas, it may respect that which is nearly future. But does that hinder, that in the Places where the browsee Strang or Lexicon parties aram tours.

Trearde them, that there could be not q' thubottnI (x)m ) that could binder their charriage, unless it witter wall coo.

Word is used, we may not by the Context clearly perceive in which of those Senses it is to be understood? And is it not obvious here, that dudum must fignify a good while ago, or, as our Author himself (notwithstanding the great Uncertainty he was in this Place about it) renders it in his Translation of this Charter at the End of his Book, Long SINCE? But were there any Uncertainty or Obscurity in the Word dudum, the Words immediately following remove it, viz. Super matrimonio contrabendo inter nos & QUONDAM Elizabeth More, dum ageret in humanis, i. e. upon a Marriage to be contracted betwint us and the SOMETIME, the HERETOFORE, WHILOM, or, (as our Scots Stile has it) UMQUHILE Elizabeth More. while she was on Life: which plainly imports that The was a LONG WHILE AGO dead. It is certain that Robert was at this Time married to Eupheme Rofs (who, according to the Charter, was undoubtedly his second Wife,) and it is more than probable that she had been married to him several Years before. She was the Dowager of John Randolph Earl of Murray, who was flain at the fatal Battle of Durham, Anno 1346, about 18 Years before the granting of this Charter. Her Daughter Isabel, not Eupheme (as some of our Historians erroneously call her) whom she bare to this Robert, was betrothed to James, Son of William Earl of Douglas, about fix Years after the Date of this Charter; and her eldest Son of the fame Marriage, David Earl of Strathern is one of those that append their Seals to that famous Recognition of his eldest Brother John's Right, to be Heir and Successor to their common Father, about Hh

the same Time. All which put together, will help our Author to understand the Meaning of the Word DUDUM, without the Help of a Lexicographer; and renders it the more unaccountable in him, immediately to add, " Nay, fays be, Ro-" bert himself does not seem to know or remember, when the Delegation was made, whether it " was a good while ago, or late: This furely has " no favourable Aspect as to the Authenticity of " the Charter." Robert, according to him, must have had a very bad Memory (almost as bad as that of the Emperor Claudius, who, after he had caused his Wife Messalina to be put to Death the Day before, asked why she came not to Dinner the Day after,) that did not know or remember when his former Wife died, and hardly whether he had now got a second; for it is almost certain that he had then two Children at least by that second Wife. 'Tis a Pity King Robert had not fuch a Scribe as our Author would have appointed him; for then he would have inferted in this Charter the Pope's Bull, at least the Date of it; as also the particular Degree of Confanguinity in which he and his first Wife stood; as likewise the Year and Day in which they were married, and when she died; and particularly would have taken care to make Robert to speak of this his dear Wife, with some Marks of Esteem, or the Affection be bad for her, she being exceeding beautiful, and a fruitful Vine (z), which

<sup>(</sup>z) Had Robert done so in this Charter, he should likewise have taken care that his present Spoule Eupheme Ross should not hear of it; for the second Wife does not like it well, that the Husband should launch out much in the Praise of her Predesector.

our Author thinks a great Omission in this Charter, in his p. 112. And must our Charter fall for Want

of these and such like Compliments?

Bur had all this been in the Charter, yet he again complains, p. 105, that the original Bull is still wanting, and till that is produced, all is to go for nothing. I have endeavoured to fatisfy him as to the Bull already. But there are other Difficulties still behind. " How does it appear, fays be, " that the Dispensation was used? How comes it " that the Bishop of Glasgow was content with one " Chapel, when he had it in his Power to have de-" manded two? How comes he to be fatisfied with " fuch a small Sum for supporting that one ? And " what Certainty have we of its ever being paid?" To the two last of these Questions I have answered before. As to the first, whether the Dispensation was used or not; Does not the Charter exprefly fay fo (a)? As to the Bishop's demanding but one Chapel, and delaying even that one for folong a Time; I suppose that the Bishop was a good Man, and not, as many of our Clergy and others now a Days, who are easy about their Country, if themselves are well. He saw it engaged in a most dreadful War, in which the Fate and Liberty of It was at Stake; that the King was eleven of these Years a Prisoner, and a prodigious Sum to be paid for his Ransom; that Robert was for a good Part of that Time Governor of the Kingdom, and had Hh2 allo inegas of it.

And they think an area

<sup>(</sup>a) The Words are, Ac dictus venerabilis pater, consideratis in bac parts considerandis, nobiscum super impedimento pradicto, auctoritate qua supra, DISPENSANS. And is it to be thought, that Robert would have granted this Charter, if what it was granted for was not performed?

to great a Weight lying on his Shoulders. Was,it any Wonder then, that the Bishop should forbear exacting Chaplainries to be added to his Cathedral, till the Kingdom had recovered itself into some State of Tranquillity; and that he should content himself with one Chaplainry, when its Circumstances were yet still very low? Had King Robert lived in our Days, 'tis not impossible but he might have found some Casuists that would have absolved him from the Obligation altogether.

THERE is one thing however, in which I am fure our Author is in the Wrong, when he suppo-Jes, ead. (p. 105.) it possible, that there was a great, or a good while, between granting the delegated Power, and making the Marriage : Which, adds he, feems very strange, And so say I likewise, if it were true: For it would have been very strange in Robert to have delayed his Marriage a great or good while, after he had obtained the Dilpensation; when it was his waiting for it, and the removing the Impediment, that made him delay the

Marriage at all.

Our Author, p. 106, furnishes us yet with other

Coding that Major, who he strange Work. For, finding that Major, who he says is the only Historian that does so (b), speaks of a Dispensation, and being unwilling to reject his Authority, autom he thinks to have been an honest and impartial Writer, he admits there was a Dispensanoise Time Governor of the Kleydom, and

<sup>(</sup>b) But he is mistaken in that; for Fordon also speaks of it, Vol. iv. p. 963. ex edit. Tho. Hearne. And tho' Major simply calls, it a Dispensation, without adding that it was a Papal one, as our Author observes; yet Fordon, from whom Major took it, exprelly fays, impetrata dipensatione Sedis A. postolice, i e abrained from the Pope, by whose sole Authority all fuch Difpensations were generally granted,

fation in the Cafe, but will not have it to have come from the Pope or his Delegates, but from the Perliament. A very likely Tale this! That the Pope would fuffer fo lucrative a Traffique, which he and his Predecessors had immemorially, and, for ought appears, from the Beginning of the Papacy, constantly possessed, to be wrested out of his Hands, by any Emperor, King, People or Parliament, that then owned his Authority. But let us fee what was the Nature of our Author's Parliamentary Dispensation: And truly according to him it was a very strange one. " For, fays he, Ro-" bert being to take Elizabeth Muir to be his "Wife, for his first Wife was dead, the Parlia-" ment granted him an Allowance to marry her, " and did recognize John his first begotten to be " his Heir, and legitimated all the other Children. "And this was John's (alias Robert's) Title to "the Crown, fo that the Dispensation was not be-" cause of the alledged Degrees of Consanguinity and Affinity, but because these Children he had " by Elizabeth were born before he had married " Euphemia; and tho' this was the Case, the Par-" liament would not serve a Bill of Enclusion a-" gainst them," I am forced to fet down our Author's Words at length, that I may not be thought to misrepresent them. But I would ask him in the first Place, where he found this Ast of Difpensation, and, as he will have it, also of Legitimation. I see no other it can be, but that solemn Declaration of the Parliament of Scotland, anno 1371, recognizing John's (alias Robert's) Title to the Crown after the Decease of his Father. But it is a very odd Dispensation or Legitimation this, wherein that

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wherein no fuch Words are to be found, nor any Thing like them infinuated. Besides, it is not so much as hinted, that the Parliament did in the least exercise any authoritative Act of Power in this their Deed, but only they manifest to the World, what then was, and had been their con-Stant Judgment and full Persuasion before, viz. That John was King Robert's Heir apparent, and bught to be his real Heir and Successor in the Throne: Which plainly supposes that he was his Father's lowful Son, and not that they did make him fo. Besides his Mother Elizabeth's Name Is not mentioned in the Act, and as little are King Robert's other Children (who he fays were likewife degitimated by it) taken the least hotice of.

od Bur the melt wonderful Thing of all follows; The Parliament, Tays he, granted King Robert an Allowance to marry Elizabeth Muir, bis former Wife Eupheme Rols being (as he fays a little before) now dead. Did our Author consider here what he was faving? Did he not know that the Act of Parliament, he is speaking of, was made in the very Beginning of King Robert II.'s Reign, and in the Beginning (according to our then Computation) of the Year 1371? And has he forgot that all thefe Historians, whom he puts fo much Trust in, place Queen Eupheme Rofs's Death, and the King's fecond Marriage with Elizabeth Muir, in the third Year of his Reign, i. e. anno 1373 or 1374? How could he then fay, that the King's first Wife Enpheme Ross was dead before or at the passing of this Act of Parliament? He is indeed fo modest as to call this a Conjecture. But he might as well have conjectured, that Rivers run backwards, or that

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that the Top of a Hill is the lowest Part of it; for these Things are not more contrary to Nature, than that the Year 1373 or 1374 can be before the Year 1371. And yet nothing less than this can-

Support his Conjecture.

Our Author however taking it for granted, that John (alias Robert) was a Bastard, and only legitimated by this Act of Parliament (tho the Act itfelf shews the contrary) tells us, p. 107, " That " our Scots People had Precedents for making Baflards their Kings." And he instances in Gillus. our 13th, and Duncan II. our 88th King: But he himself owns that the last of these was an Usurper, p. 43. and fet up by a Faction, not chosen by the People: And the first is one of those Kings, whom, he, p. 50. has annihilated.

WHAT he adds afterwards, ead. p. 107. has some Shew of an Argument, viz. "That as the Advo-" cates for the Legitimacy of Robert III. are at a Loss to find out the Time, when the alledged Dispensation was obtained; so they cannot agree, whether the Dispensation was granted for a Marriage to be made with Elizabeth, or for a " Marriage already made with her. The Earl of " Cromarty (c) is for the former, but Mr. Sage is for the latter, (d). The Earl founds his Opinion on the Words of the Charter, Super ma-" trimonio contrabendo. i. e. a Marriage to be con-" tracted; which, fays he, i. e. the Earl, would be no less than ten or twelve Years before the Date of the Charter; and it's Date being anno 1364, " ten or twelve Years before it, will be anna

(a) Introduct. p. 41.

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<sup>(</sup>c) Pag. 63. (d) Introduct. p. 44

1352 or 1354: By which Means, John (alias " Robert III.) was called to be a Witness to that Deed, when he was but ten of twelve Years of Age. Mr. Sage being distatisfied with the " Earl's Account, thinks that the Dispensation was of for a Marriage already contracted; and therefore, " he fays, (e) that we may with great Reason althu, that he might have married her, and that privately too, when he was of Age about ninteen or twenty, anno 1337 or 1338, &c. before the Difpensation was obtained; which yet might have been obtained anno 1337 or 1338. But, contimues our Author, how can it be allowed that it was obtained about two Years after the Marrier age, when he tells us afterwards, that before " the Dispensation was obtained, Elizabeth had born to bim most of, if not all, her Sons, when this would have been in the Space of two Years?"-And then concludes with a Fling at Mr. Sage's Inconfiftencies; which indeed they are, as he has made them. But these Things must be considered Separately. And.

If, As we have no Light to direct us, but what that Charter affords, and, as it speaks only in general Terms, it is very difficult, if not impossible, at this Distance, with any measure of Cercainty, to know when that Dispensation was obtained, and when Robert II. and Elizabeth More were married together. This much, on the Faith of that Charter, we may depend on, that there was a Dispensation for the Marriage, and that immediately, or very foon after, the Marriage was

it a fatonal (4)

<sup>(</sup>e) Introduct. p. 41.





Robert was King, and very probably a good many more before the Date of the Charter, and many more still before the Death of Eupheme Ross. These Things alone are sufficient to assure us, that Elizabeth More was Robert's first Wise, and that the Children he had by her were all lawful Children, and consequently that what our Historians, were there a thousand more of them, relate, is all salse and without any Manner of Foundation. But then,

before any of the Children were begotten; or whether there were two Marriages, one clandefline before the Parties cohabited together, and another afterwards more publick and canonical; or
finally, whether that Dispensation did ratify the
first, and make another Marriage unnecessary: All
these are little else than Matters of mere Conjecture,
and how much soever Authors may be divided about them, they can no more affect the Truth of
the Charter, than the Disputes among Philosophers concerning the Causes of Things, can destroy
the Existence of the Things themselves.

The Earl of Cromarty, 'tis true, thinks that the Words of the Charter, fuper matrimonio contrabendo, do imply that there was no Marriage before the Dispensation was obtained. Mr. Hay of Drumboot carries the Matter yet higher, and thinks they were canonically married from the Beginning, and did not cohabit together till the Marriage was authorized by the Pope's Dispensation. I confess, that as the Reasons given by both seem to have a good deal of Weight, I would much incline to be of one or other of their Opinions. But, as I pay

a great Regard to old Fordon, whose Words I have fet down in the Margin (f), I incline much with him to believe, that they were not formally married till the Year 1349; and that his Words, de facto copulavit, fignify that they had cohabited together as Man and Wife, and begotten all or most of their Children before that Time: And that that alone, had not their Confanguinity (whatever that was) put a Bar to it, would have made it a Marriage, and that indiffoluble, without any other Formality or Ceremony about it. His adding extra matrimonium, feems to be against Mr. Sage, who supposes there were two Marriages, one clandestine from the Beginning, and another canonical some Years after; unless, perhaps by matrimonium, Fordon means such a Marriage as is regular and approv'd by the Church, which clandestine ones certainly were not. But what fignify all these things? They are all but pure Guesses, which neither the Earl, Mr. Sage, nor I, lay any Stress upon. Mr. Hay indeed is more positive: But the main Point in Dispute we all agree in. Elizabeth More was certainly married to King Robert; and all their Children, especially the eldest, were owned and acknowledged to be lawful by the whole Inhabitants of the Kingdom, long, very long, before the Death of Queen Eupheme his second Wife.

3dly, Our Author takes occasion for quibbling with the Earl of Cromarty, for saying (g), that the Dispen-

(g) Pag. 63.

<sup>(</sup>f) Iste Robertus copulavit sibi de facto unam de siliabus Ada More militis, de qua genuit silios & silias extra matrimonium; quam postea, impetratà dispensatione Sedis Apostolica, desponsavit canonice & sormà Ecclesia, Anno scilicet Demini MCCCXLIX. Edit. Tho. Hearne, Vol. iv. p. 962,

Dispensation for a Marriage to be contracted, could be no less than ten or twelve Years before the Date of the Charter 1364, i. e. fays our Author, Anno 1352 or 1354. By which means, fays he, John (alias Robert) was called to be a Witness to that Deed, when he was but ten or twelve Years of Age. And is that so great a Wonder? I my self remember, that I have both written and been a Witness to Deeds before I was past that Age, and would yet know and own my Subscription, if there were occasion for it. But John is not a Witness, but a Consenter, his Seal only being appended to that Deed. Moreover, he was then not ten or twelve, but at least twenty seven Years old, as I, after Mr. Sage, prove (b) from the Age of the third Brother Robert, who having died upwards of eighty, in the Year 1420 (i), must have been born in the Year 1339 or 1340. But the Earl here is nowise to be blamed, when he says indefinitely, that John could be no less than ten or twelve Years old before the granting of that Charter; for that was enough for his Purpose, and did not hinder but that he might have said that he was much elder, as he really then was.

4thly, But our Author, as he bears him the greatest Grudge, is farthest in the wrong to Mr. Sage. For in the first place he makes him speak Nonsense, by bringing him in saying, that Robert might have married Elizabeth More, and that privately too, while he was of Age about nineteen or

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<sup>(</sup>h) Pref. to Diplom. not. [e] p. 42.

(i) Fordon's Continuator makes him to have died 3. Non.'

Septemb. 1419. But I have in a Note on Buchanan's History,

P. 437. col. 1. proved that he died in the Year 1420.

twenty, Anno 1337 or 1338, &c. before the Dif. pensation was obtained, which yet might have been obtained Anno 1337 or 1338, And our Author immediately adds, How could it be allowed, that it was obtain'd about two Years after the Marriage? But where did our Author find these two Years? For I am fure between one 1337, and another 1337, or one 1338 and another 1338, there is not any Distance at all, far less of two Years. But the Truth is, our Author (whether by his own or the Printer's Negligence, which yet he will not forgive to others) has changed Mr. Sage's Numbers. For he supposes the Marriage to have been Anno 1335 or 1336, and that the Dispensation was obtain'd Anno 1337 or 1338, between which there are indeed (tho' Mr. Sage does not express them) our Author's two Years.

But to pass these Errors of the Press, which it would be hard to make Authors accountable for, there is a much worse coming, which will not easily admit of an Excuse, For, he says, how can it be allowed, that the Dispensation was obtained about two Years after the Marriage, when he tells us afterwards (k), that before the Dispensation was obtain'd, Elizabeth had born to him, perhaps most of, if not all her Sons. And to make the Thing worse, because Mr. Sage says, that Alexander the fourth Son was one of Elizabeth's younger Children, he will have him to say, That not only most of Robert's four Sons, but most also of his six Daughters, whom Mr. Crawford speaks of (l), were born

(1) History of the Stewarts, p. 17 and 18.

<sup>(</sup>k) Our Author marks it, ibid. i. e. p. 41. whereas it is two Pages after, viz. 43.

born to him in the Space of two Years. But Mr. Sage was not capable of fuch Absurdities, as will eafily appear from the Words immediately following these mentioned by our Author (m), had he been so just as to have subjoined them. Mr. Sage is there barely supposing, that the Marriage might have been, i. e. that private Marriage he there speaks of, in Anno 1335 or 1336, and that the Dispensation was not obtain'd till the Year 1337 of 1228, i.e. two Years after, in which Space every body must see, that Robert's Wife Elizabeth (unless they were Twins) could bring him but one or two Children, But he forthwith adds, Tho' this infers not a Necessity of its (i.e. the Dispensation) being so soon obtain'd, but fairly allows that it might have been obtain'd divers Years after. Again, in p. 42. he gives us another Conjecture concerning Robert's Marriages, for he thinks there may poffibly have been two of them, the one, (as I faid) private, and the other publick; he adds, that probably (for all is Conjecture) before Robert obtain'd a Dispensation to legitimate the Marriage, (he means the private one) Elizabeth had born to him divers Children, perhaps most of, if not all his Sons. How unfair is it then in our Author to jumble these two quite different Conjectures of Mr. Sage into one, that he might thereby involve him into Contradictions; especially as Mr. Sage, in the End of this last Conjecture, adds, That tho' it Should be rejected as the most improbable of all, I should, fays he, be very little mov'd, for I lay no Stress on it!

WHAT our Author subjoins concerning what is

mentioned by the Earl of Cromarty (n), as afferted by one Mr. John Learmonth Chaplain to Alexander Bishop of St. Andrews, in his Collection of the Scots Antiquities, " That he faw a Certifi-" cate under the Hand of Roger Macadam, a " Priest, bearing that he did marry Robert the " Great Steward of Scotland to Elizabeth Mure " Daughter to Rowallan." Tho' the Thing in itself is nowise improbable, yet let it be as great a Fiction as he will have it, I am in no Concern about it. They were certainly once at least married by some Priest or other: Or if, because of the Dignity of the Persons, one of a superior Order. as an Abbot or Bishop, (as our Author thinks, p. 109.) should have been employed, yet the Office should have been performed by him in the Quality of a Priest (o). Our Author thinks that Macadam's Certificate is not to be regarded, because be does not tell where he served the Cure, where and when he celebrated the Marriage, and who were Witnesses to it. But I know not, but the' these Things had been mentioned in Macadam's Certificate, our Author would have found Fault. that he had likewise not mentioned what Cloaths the Bridegroom and Bride had on, or who was his best Man and her best Maiden, &c. Were all these Things to have been set down in a short Note? I doubt if our Author himself be so exact. Honest Fordon, speaking of that Marriage, tells us indeed that it was canonical, and that it was in the Year 1349, without adding the Day of the Month:

(n) Vindication, p. 70.

<sup>(</sup>a) For Deacons were very rarely allowed to administer that Sacrament, (as it was then called;) and that only by the special Delegation or Permission of the Parish Priest.

Month: But in what Church, by what Priest, and before what Witnesses, he says nothing.

In the same Page he finds Fault, and I believe justly, with the Papists, for calling Marriage a Sacrament; and quarrels, that in their vulgar Version they translate that Passage of the Apostle, Ephes. v. 32. speaking of Marriage, Hoc est magnum sacramentum, for Hoc est magnum mysterium: But he will allow me to tell him, that St. Jerome, the Father the Presbyterians are most fond of, and who lived before Popery began, translates the Place the same Way (p).

Bur, to return to our Subject, our Author has another Push at Mr. Sage, " who, says he, main-" tains, that the Dispensation was procured for " legitimating a Marriage already made, even tho' both he and the Charter own the Impediment of Confanguinity: But tho', adds our Author, I know what the legitimating of Children means, I do not fo well understand what the " legitimating of a Marriage is; for the known Doctrine of the Church of Rome is, that Mar-" riage is a Sacrament." I answer, that the Legitimation of a Marriage is, that which makes that which otherwife would be unlawful, to become lawful. Mr. Sage indeed supposes that the Marriage at first was private, and that, not so much for that, as upon the Account of Confanguinity, it was void and null. But whether, when the Dif-

pensation

<sup>(</sup>p) I might add, that in ancient Times, the Word Sacramentum is often used in a large Sense, for any Gospel Mystery, or sacred Rite. And thus the Sacrament of the Eucharist is frequently, on the other hand, by Protestant Divines, called the Participation of the holy Mysteries.

pensation came, which removed that Obstacle, it was necessary that the Parties should be again married or not, I confess that I know so little of the Canon Law, that I will not take upon me to determine. I incline indeed to think that was not the Case, and that there was no Marriage but one. Our Author fays, "That if any of the Po-" pish Sacraments is dispensed by a Priest canoni-" cally ordain'd, the Sacrament fo dispensed is " ipfo facto valid." But, fay I, if in any of these Sacraments, what is effential to the Matter or Form of them, is omitted, they are ipso facto invalid: And in these four, Baptism, Confirmation, Marriage, and Orders, which imprint a Character which they call indelible, if the Essentials are wanting in the first Administration, they must be repeated. Not that these Sacraments are really reiterated, or performed twice; but that, at first, they were null and no Sacraments at all, tho a Priest had been the Administrator of them. How far this would take place in private Marriages, within the Degrees of Confanguinity prohibited by the Canon Law, so as that upon Difpensations the Ceremony should be repeated, as I faid before, I know not. Only this I know, that all Marriages within the then forbidden Degrees of Confanguinity, tho' celebrated by any Priest whatfoever, if he had not previously a Dispensation for so doing, were and still are by the Canonists accounted void and null; at least in such Popish Churches, where the Acts of the Council of Trent, concerning that Matter, are received.

Our Author adds, p. 110. "If Mr. Sage" means by legitimating the Marriage, the ma-

king an unlawful Marriage, forbidden by the " Law of Goo --- to be a lawful Marriage, no " Power in Earth can legitimate it; unless the " Pope of Rome has a Power above Gop, a " Power of dispensing with his Laws. And if this " was Mr. Sage's Meaning it still remains that " Elizabeth's Children were Bastards, not only " before, but after obtaining the Dispensation." Mr. Sage had no fuch Meaning: And it is utterly incredible, that Robert and Elizabeth More stood within the Degrees of Confanguinity forbidden by the Laws of God. On the contrary, it is more than probable that their Relation to one another was more remote than that which the Laws of God allow Marriages to be contracted in. As to the Pope's Power, I am very far from approving that which he has sometimes assum'd to himself, of dispensing with Marriages which the Laws of God make unlawful; yet I would not take upon me to pronounce the Children of fuch Marriages Bastards. And if a Question should arise between the Posterity of fuch Children, and others their Collaterals descended by lawful Marriages from the same Family, before that unlawful Marriage took place; I very much doubt if our Laws at present would restore an Estate to him that was deprived of it by that unlawful Marriage long ago. But as that is not to be supposed the Case here, I shall say no more of it.

In the same p. 110. our Author, with no more Justice than before, tells us, that Mr. Sage (whom he will have always to be in the wrong) affirms, "That upon the obtaining the Dispensation, there followed a canonical Solemnization and Appro
K k "bation

" bation of the Marriage, the Impediment of " Consanguinity notwithstanding. But this, adds our Author, is to carry the Matter too far; for " the dispensing with a Fault or Crime does not " import an Approbation of it." Mr. Sage has not a Word of Approbation in that Place. 'Tis true, that in his p. 31. speaking of the Words of Jo. Major, Iste Rex de facto unam de filiabus Ada Mure militis sibi copulavit, he says, " he " takes them to import that he did indeed marry " Elizabeth: But that Marriage was unlawful by " the Canon Law; and to legitimate it, it beho-" ved him to obtain a Papal Dispensation; and after he obtain'd this, there was a canonical So-" lemnization or Approbation of the Marriage; " and thereby Feam sibi copulavit tam de jure " quam de facto.]" But who does not see here, that by the Word Approbation, Mr. Sage could mean no more, but that this second Marriage was a Ratification of the first, and that the Dispensation granted for that Purpose took off the Invalidity or Nullity that was in it before? And not that he intended to affirm a Thing which no Man in his right Wits ever did, or could affirm, that the difpensing with a Fault or Crime imports an Approbation of it? Did ever Mortal yet think, when a King grants a Remission for Treason, Murder, Robbery, or the like, that he approves the Commission of those Crimes?

AFTER these unjust Attacks upon the worthy Mr. Sage, he next proceeds, ibid. to give us some other Remarks, which he fancies will nullify the Validity of that samous Charter. And the first of these he has borrowed from his Friend Mr. At-

wood, viz. That Robert (whom he, following that impudent Writer, calls, p. 111. Stewart of Carrick, instead of Lord High Steward of Scotland, which was then in ours, and still is in our neighbour Kingdom, the highest Office any can bear) speaks of himself in the plural Number; a Custom, says he, not then used by our Kings, far less by Subjects. Tho' I have demonstratively confuted that Objection of Mr. Atwood, and shew'd, that it was at that Time, and several Years before, the constant Custom of all our chief Nobility, and much more of our Kings, to use the plural Number (q), when speaking of themselves; yet our Author will needs here again insist on it. But when he comes to his p. 163, finding the Proofs I had brought of that Usage among our Nobility so flagrant, that he could not get over them, 1st, he minches the Matter a little, by telling us, that he is now of Opinion that some great Men did use the plural Number, and others only the singular. He should have given some Instances of those others who only used the singular Number at that Time. I am so far from knowing any such, that if I saw any Charters of the High Steward, or any other of our prime Nobility at that Time, in which, when they speak of themselves, they used the sin. gular Number, I would very much suspect the Genuineness of them. But that is not all; for, adly, he thinks he has got a Catch of me, from these Words of mine (r), Nemo, quod sciam, de Scotorum primi ardinis viris, alio ea tempestate quam multitudinis numero, in suis chartis uteretur. He

(r) 1bid, p. 41,

<sup>(</sup>q) Praf. ad Andersoni Diplom. p. 39.

should, to have made my Language tolerable, have faid as I have it, Cum nemo, quod sciam, &c. otherwife he should have made it utebatur. However, he translates the Words intelligibly enough; There is none that I know of the first Rank of Scotimen, but at that Time did use the plural Number in granting of Charters. " But yet, fays be, if Mr. At-" wood and I have erred, Mr. Ruddiman has like-" wife been in a Mistake;" and that he has been fo, he adds a little below, " the Instances I had " assign'd, p. 3. which I quoted from Sir James "Dalrymple's Collections, will clearly shew:" And then concludes, " Veniam petimus damusque " vicissim." I find none of those Instances in his p. 3. but I find them in p. 111. his Printer having mistaken his Figures for numeral Letters. But how will they answer my EA TEMPESTATE and his AT THAT TIME, when the latest of them he brings from Sir Fames Dalrymple is near 200 Years older than King Robert's Charter? The Persons Granters of these Charters, which he quotes from Sir James, are four, viz. three Kings and one Nobleman. The Kings are, Alexander I. David I. and William. The first of these died in the Year 1124, the second in 1153, and the third in 1214. But the Charter of this last, as Sir James (s) observes, was written before the Year 1180. The Charter of the Nobleman is that of Valduus or Valdeous, i. e. Waldeve or Waltheve, (for so he is variously named, not Walter, as our Author calls him) Son of Cofpatrick, probably Earl of Dunbar: But his Charter (as Sir James there notes) feems to be written about the cate and the begot on he had Begin-

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Beginning of David I.'s Reign, i. e. as I take it. before the Year 1130. Our Author quotes also from Mr. Anderson's Independency, &c. five Charters of King Edgar, who died Anno 1107, and one of King William; but this last cannot be later than the Year 1189, in which Richard Morewell (t) Constable of Scotland (who is one of the Witnesses to it) died. And thus, even this last is at least more ancient than Robert's Charter by 175 Years: But how will that agree with what I fay was the Custom AT THE TIME Robert's

Charter was granted?

Bur to clear up this Matter a little further, both for the Satisfaction of our Author, (who feems very little acquainted with the Stiles and Forms of old Writs) as well as the Information of others who shall think it worth their while to read this my Answer to him: It appears by the holy Scriptures, as well as profane Writers, that in very ancient Times, Kings, Princes, and the greatest of Men, when speaking of themselves, used only the fingular Number. As to the Roman Emperors, tho' the Latin Idiom allows Men, speaking of themselves, to use indifferently either the fingular or the plural; yet, fo far as I can find, those that were Heathen generally used the fingular, down to Philippus, about A. C. 245, who is the first that I can find who introduced the plural in his Edicts or Laws (u). His Exand discount, because will the

(t) See Pref, to Diplom. p. 117. col. 2.

<sup>(</sup>u) This appears from Justinian's Code, where, lib. ix. vit. 45. De bonis proscriptorum, l. 5. Philippus says, Procuratorem nostrum adire cura. And yet his immediate Predecessor Gordian, lib. x. tit. 3. De fide O jure hafta fiscalis, l. 2. has utilin

ample has most probably been followed by his Heathen as well as Christian Successors. This is certain, that Constantine the Great, and all the Roman and Greek Emperors after him, never The Emperors of Germany Speak otherwise. followed their Example, and after them the Kings of France (v). Richard I. of England is the first of that Kingdom, that I can find, who left off the fingular and introduced the plural (w); as did our Alexander II. who used (as appears by his Charters in the Chartulary of Kelfo, now in the Advocates Library) the fingular Number till the 8th Year of his Reign, i. e. A. D. 1222: But after that, he and all his Successors constantly use the plural. Not long afterwards (I know not precifely when) all our chief Nobility took up the Cufrom; which is generally followed with them to this Day in granting their Charters and other publick Deeds. From this Account of the Matter, (in which our Author has obliged me to be more prolix than was otherwise necessary) I leave it to the Reader to judge, at whose Door the Mistake he alledges ought to ly; and whether he or I ought verlam petere, or dare for them. turnlar or the short; yet, to ter as

atilitatem rationum mearum, and l. 3. Progurator meus non

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(v) Nay, some of the Kings of France before Charlemagne, (as appears by the Capitalaria Regum Francorum) viz. Childebert, Clothaire, Guntram and Dagobert, generally use the

(w) Henry II. Richard I.'s Father, sometimes uses the Plu-'ral; but the far greater Part of his Writs that I have feen, and even some of the latest, have the Singular: But Richard his Bon, and all the Kings of England after him, constantly use the Plural -

Bur the other following Remarks which our Author brings p. 110-113 to invalidate the above Charter, do yet more palpably discover his strange Ignorance, in the Stile and Phraseology of our ancient Writs. These Remarks are entirely his own, and not Mr. Atwood's, who, I am pret ty confident, were he alive, would not envy him the Glory of being the first that made them. I shall need only to mention them, to shew how idle and frivolous they are. 1st, He finds Fault with Noverit Universitas vestra. 2dly, with visuris vel audituris. 3dly, with Salutem in Domina sempiternam. Athly, with contra omnes homines & faminas warrantizabimus. 5thly, That the fever ral Persons mentioned as Witnesses, are not said to have subscribed this Paper.

To the 1st, 2d and 4th, It is sufficient to tell him, that in all our ancient Writs, and in many of them to this Day, there is nothing more trite and common than these Forms and Ways of Speaking are. For which I refer him to our publick Records, and to the several Chartularies, and other Collections of that Kind, in the Advocates Library and elsewhere, in which he can hardly turn a Leaf, without finding sometimes all, and often one or other of those Phrases. Nor were they peculiar to Scotland, but were likewise used in other Kingdoms; of which several Instances are to be met with in Rymer's Fædera Angliæ, Dugdale's Monasticon, Madox's Formulare Angliæ, Dugdale's Monasticon, Madox's Formulare Angliæanum, &c. And no doubt in such Books abroad.

As to the Objection he makes to the Phrase, Salutem im Domino sempiternam, which, says he, is rather the Language of a Priest, than of a Prince.

Prince," (as if, forfooth, none but a Clergyman could wish to another eternal Happiness) and adds, " that he does not observe the like in any "Charter granted by a Laick, except in another by the same Robert, published by the Earl of Cromarty:" This is very odd, when he had (not to mention any other) Mr. Anderson's Diplomata before him, in which he might have seen in Sir William Wallace's, No. 43. and in Sir Walter Cumming's, No. 79. aternam in Domino salutem, which, I suppose, is the same Thing with salutem in Domino sempiternam; which last are the precife Words of Duke Murdo the Governor's Charter, No. 65. He might have feen also in the Appendix to Mr. Anderson's Independency, &c. No. o. the famous Renunciation of Edward III. of England, of all Claim of Homage from Scotland, ushered in with the Salutation of Salutem & pacem in Domino sempiternam. But our Author, it would feem, has a pecular Faculty, of feeing or not feeing Things, as they are, or are not convenient for his Purpose.

As to the Phrase, contra omnes homines & faminas warrantizabimus, I own that, as the Word homines includes both Sexes, & saminas might have been spared: But who knows not, that there is nothing more usual with Scribes, than to multiply Words, when there is very little Occasion for them? And of this in particular, if our Author doubts of it, I can furnish him with many

Examples.

As to the Witnesses, who, tho' inserted, are not said to have subscribed this Paper, I again remit our Author to Mr. Anderson's Diplomata, in which

if he find to much as one, wherein the Witnesses mentioned in them, are either faid to have fubscribed, or did actually subscribe, their Names to it, I give up this Charter as a Forgery. But if the contrary is certainly true, how furprising must it be in our Author, to affert in very strong Terms, " That in common Senfe, and by our Law, tho " Persons are narrated as Witnesses to an obli-" gatory Deed, or a Contract, Charter, Bond and "Testament; yet if it appears that they have not subscribed these as Witnesses, the Deeds " are ipso facto void and null?" It is, I confess, To now, in ordinary Bonds, Contracts, Testaments, and the like; but in Charters, and fuch Deeds as we call Litera patentes, it was not then, and hardly now is the Custom, to have any other thing in them, or about them, to give them an obligatory Force, but the bare naming of the Witnesses, and the appending of the Granters Seals to them. If our Author will fay, that the Subscription of the Witnesses are likewise necessary, all the landed Noblemen or Gentlemen in Scotland may burn their Charters, as wanting that which our Author would have absolutely necessary for confirming their Rights to their Estares.

Our Author, after having told us, (p. 113.)

"That his foresaid Considerations are sufficient
to convince any unprejudiced Person, that the
said Charter is not genuine," falls next upon the
Publishers of it, beginning with these Words, "It
remains, says be, that I take the Arguments
brought by the Parissan Antiquaries and Publishers, for proving its Authenticity, under my
Review." The Parissan Editors of that Char-

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of it. For having laid it before the best Judges that France (and I may say the World) could afford, and got from them a most solemn Attestation, that it was a true and genuine Deed; they thought they had no more to do, but to propose some historical Observations upon it, and the natural Inferences that slow from it. But what strange Method does our Author here take? He turns these Inferences drawn from the Charter, to be so many Arguments for the Genuineness of it, and will

have us to follow him after his Way.

HE owns himself, that these Inferences neces farily follow, supposing the Charter to be genuine; but he adds, 1st, " That this is what was under-" taken to be proved; and therefore what they " fay, is contrary to all the Rules of Logic, and " a ridiculous petitio principii." The Publishers, had not, as I faid, the least Thought of going about to prove the Genuineness of that Charter: That they took for granted, as being firmly established upon the Faith of these learned Men, who had, as they expresly tell us, inspected, examined and fifted it, with their utmost Care and Diligence; and after they had done so, they, in the most folemn Manner, testify and declare, That it is ancient, genuine, and written unquestionably in the Charaeters of those Times; nay, that there is not the least Sign of either Falshood or Supposititiousness as bout it. And to confirm all, they subscribe their Names, and append their Seals, to no fewer-than five Copies of it, in Testimony of the Truth of what they say. If this is a petitio principii, then all the Rules of Logic are loft, and the Truth of

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no Charter, or any Deed whatfoever can be proved-THE first Inference the Publishers make, which our Author, ibid, will have to be their fecond Argument, is, " That in that Charter, " John Stewart Lord of Kyle is stiled his Father's " first begotten and Heir, and therefore he was then " his lawful Son; for no Person is called a first begotten Son and Heir, who is not begotten in " lawful Marriage." And is not this a most just Inference? No, fays our Author, and boldly refuses the Consequence. For, adds be, is it a "Thing unheard of, for a Man that has had feve-" ral Bastards by a Woman, to declare that the " first begotten of them shall be his Heir?" And then he goes on with telling us, "what Influence " a Concubine may have upon him that keeps her, " and how far a Bastard may ingratiate himself to " his Father, and the People, by his obliging Be-" haviour, or by his Valour and Conduct in War:" And for this he gives us an Instance in the late Duke of Monmouth. But our Author should have confidered the whole Charter, and made it confistent with it self. By it, it appears that Elizabeth More, whom he would have to be the Concubine, was long dead before the granting of that Charter, and that all the Influence she could be fupposed to have over him that retained her, was gone with her; that Robert had some time before got a lawful Wife, who was then living, and had born him two Children at least. Let him take in these and other Circumstances I might name, and then give us but one Instance, where what he fays is not improbable, did ever happen in the World. What he fays of the Favour and Esteem which L 1 2 my some of wethis

this Bastard, (as he will have him to be) might gain from the People, fo as to make them declare him his Father's true Heir, and lawful Successor to him in the Throne, when the Father had at that Time one, if not two, lawful Sons, who had the only Right to these Titles, is to suppose that the whole People of Scotland had gone stark mad; and arrived at fuch a Pitch of Frenzie, as Bedlam itself can hardly parallel. As to the Duke of Monmouth, had his Father King Charles II. in his publick Writings named him his first begotten and Heir, all the World must have believed that Mrs. Lucy Walters, the Mother, was Charles II.'s lawful Wife. This indeed that Duke's Followers gave out, notwithstanding that his Father had given them the most folemn Declarations to the contrary. It is no less idle to think; that Robert calling John his Heir, meant no more but that he was to be Heir to his personal Estate (x). For who ever heard a Bastard call'd in general a Man's Heir? His Father might indeed have given him a small Fortune, to which, by that Destination, he might in some Sense be faid to be an Heir; but what King or other Person did, in the Grant which gave him a Right to it, call a Bastard indefinitely his Heir, and far less in Deeds wherein this Son of his, if a Baflard, is no way concerned? He repeats here what he had faid before, That the calling John Lord of Kyle in this Charter, is by itself sufficient to show

envisiond other Circumstances I

<sup>(</sup>x) That this is contrary to the Civil Law, see Graig de seudis, lib. ii. Dieg. 18. § 5. And in lib. ii. eap. 50. of the Regiam majestatem, § 1. it is expressly said, Nullus bastardus est heres legitimus, new aliquis qui ex legitimo massimonio neseus non est, heres esse potest.

that the Charter is a Forgery; and for this he bids us see his p. 62. 66, and 67, wherein he will have a Charter of King David, in which this John is stiled Earl of Garrick, to have been written in the Year 1350: But I have so fully shewed above, p. 229,—235, the Groundlessness of such a Supposition, that I hope we shall hear no more of it.

The Parifian Antiquaries, as he calls them, fay, " That Sir John Hay Clerk-Register, being commanded by King Charles I. to fearch the pu-" blick Records, whether the Act or Decree of Par-"liament, declaring John's Legitimation could be found or not, reported to his Majesty that the could find no such Act, but every thing to the contrary." This our Author makes their third Argument, expressing it his own Way and objects that we want Vouchers for this Order of King Charles, and Sir John's Report; and adds, That Buchanan's Affertion is as much to be regarded as Sir John's: Tho' there is no Compari-Ion to be made betwixt Buchanan's Affertion, and Sir John's Report, Supposing them equally honest Men; (for Buchanan relates what a lying Monk or Priest had said long before, and which he heedlefly follows him in; but Sir John tells a Matter of Fact, in which he himself is principally concerned, and could not possibly be imposed upon;) yet as the Matter is fully cleared up another Way, I leave it to our Author to do with Sir Fobn's Report, and the Vouchers for it, as he pleases.

But I will not fo easily pass what he subjoins afterwards, p. 116. where he asks us, "If Sir Lewis Stewart's naked Assertion is to be held as a Consutation of Buchanan?" He is egregiously

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in the wrong to Sir Lewis, in calling what he writes a naked Affertion. It deserves a quire different Name. It is an Attestation of a Person of great Eminency, Probity and Learning, of what he faw with his own Eyes in the publick Archives of the Kingdom: And can any thing that Buchanan fays in the Matter, be laid in the Balance with fuch a Teltimony? If it is true what Plautus writes, that Pluris eft oculatus testis unus, quant auriti decem, what Comparison can there be betwixt a Story retail'd by Buchanan from fecond or third Hand, and that which a Man declares he faw, felt and perus'd himfelf? Nothing fure can invalidate fuch a Testimony, but flatly giving Sir Lowis the Lie, and faying that he faw no fuch Charter as he mentions; especially when many of these Charters are yet extant in the publick Records; and no doubt some of them are loft, by their being first carried away by Cronwell, and afregwards, when ordered to be return'd by King Charles II. were cast away by Sea. De con

Our Author would here infinuate, that almost all our publick Records which were carried away by Cromwell were lost by Shipwreck, and that the rest that escaped are to this Day in Hogsheads, some of which have never been open'd up or searched. But if this were true, as it is not, (for thosmany were indeed cast away, yet a sar greater Number of them were saved from being lost, which were not in the Hogsheads he speaks of) does that hinder Sir Lewis Stewart from seeing and perusing them, long before this Kingdom became a Prey to that Usurper? The ever memomorable Thomas Earl of Haddington, who was an Lord

Lord Register in King James VI.'s time, has also made some Volumes of Collections from the publick Records, (which are preserved in the Advocates Library) many Years before that great wicked Man (as the Earl of Clarendon calls him) plagued the World. What our Author adds concerning Edward I. of England his carrying off our Records, is out of purpose, for that happen'd long before the Charters we are upon were or could be written.

Our Anthor. p. 117. will needs be still dunning us with Sir John Skene and Sir Thomas Murray's chronological Tables: And says, That it cannot be thought that Sir Lewis could declare bona side what is alledged; because, for sooth, he contradicts these Tables. But how much these Tables are to be credited, I have shew'd more than once as bove.

OUR Author trifles with us, when he tells us in the same p. 117. " That the Parisian Antiquaries " deny this Act of Parliament, when yet the Earl " of Cromarty owns there was such an Act." But what Act of Parliament does he mean? The Parifians deny that there was any Decree or Act of Parliament legitimating Robert's Children, which also Sir John Hay denies, at least says he could not find it. But the Act which the Earl of Cromarty speaks of, which recognizes John to be Robert's true and lawful Heir, they are so far from denying, that they mention it as one of these two Acts feen and attested by Sir Lewis Stewart, with the Seals of the Bishops, Nobles, Barons, &c. appended to them, whose Words, after Sir George Mackenzie, they set down. The Original of this Act lo(y) Vindication, p. 7th of Parliament, with these Seals, is, as I have often said, still extant. It is that which our Author, with the strangest Comment that ever was made, will have to be an Act legitimating John, and Robert II.'s other Children by Elizabeth More, tho' neither the Word itself, nor any thing that looks that Way, is to be found in it at all, no more than in Mahomet's Alcoran or Pope Pius II.'s Creed.

See above p. 245. STOW HOUR BY BY BY BY BY

Our Author here mentions the Reasons which the Earl of Cromarty brings (y) for Robert II.'s passing that Act; these I have also shew'd, and more fully explain'd, than that Lord has done: But that which our Author gives is a very odd one, viz. " Was there not as great Necessity for recognizing John, when Euphemia Ross, Robert's first Wife's Children, had a prior Right to the " Succession?" Why speaks he of a prior Right? For if Robert's Children by Elizabeth More were all Bastards, they had not, nor could have, any Right either prior or posterior. But what was it that brought the King and States of Scotland under a Necessity of passing such an Act? Is it not enough that he makes them so mad as to pass one of the most wicked and absurd Acts (as he interprets it) that ever was made, but will he also bring them under a fatal Necessity of being so?

Our Author's next Objection is against what he calls the fourth Argument of the Parisian Antiquaries, viz. concerning two Deeds, not Acts, as our Author calls them, mentioned by Sir George Mackenzie in his Dissertation about the lawful Suc-

cessor

<sup>(</sup>y) Vindication, p. 72

ceffor (2). The first is of Robert then Steward of Scotland, and Earl of Strathern, and his Firstbegotten and Heir John Stewart, Lord of the Barony of Kyle, to the Monks of Pailey, anno 1365 (a). The other is that of King David in favours of the Bishops, fo frequently mentioned as bove, in which John is a Witness, and design'd Robert's First-begotten Son and Heir; from which they justly (as every one ought) do infer, That John was then accounted Robert's lawful Son, before his Accession to the Crown, and of consequence that he was not legitimated, either in the first Year of his Reign, as our Author would have it, or in the third, as our other Historians relate. But what fays our Author to this? Why, he turns the fecond of these Deeds against the first, insisting ftill that the fecond, viz. that of K. David, was written in the Year 1350; not adverting, that if that was true, as it is not, it equally proves John's Legitimacy, as well as the first. See above p. 229, &c.

He goes on, p., 119. to the fifth Argument of these Antiquaries, which is, says he, "That in the Year 1371, the first of Robert's Reign, there is a Charter of Robert, in which John is called "Robert's First-begotten, and filled Earl of Carrick and Steward of Scotland, which is preserved in the Scotist College at Paris, with the Great Seal of Scotland appended to it, in which he hewise Robert Earl of Menterth is a Witness: "He was John's Brother by Elizabeth Muir; and yet Buchanan says, That these Honours of

" Earl of Menteith; and Earl of Carrick were M m " not

<sup>(2)</sup> Lond. Edit. p. 19%.

<sup>(</sup>a) Not 1364, as our Author has he . 831.9 . 211

not bestowed on them, till the Year 1274, rober Elizabeth's Children were legitimated by the " Marriage, But Buchanan, in the Pallage re-" ferred to (b), is delivering the Sentiments of o thers: For he fays, as it is reported by many; " he delivers not his own Mind, but that which " was the Opinion of many." Our Author mistakes or misrepresents Buchanan, for there he is delivering his own Sentiments, and not the Sentiments of others. His Words are, Ren five confuetudine vetere More inductus, five ( quod à multis traditur) ut filios, quos en ea genuerat legitimos faceret, matrem corum fibi matrimonio junxit; filios statim divitiis & honoribus auxit : In which it is plain, that good a multis traditur, must refer only to the Legitimation of his Sons; and not to the Titles of Honour which he bestowed on them. And this is the Senfe our Author himself takes these Words in, p. 106. 1. 2, where he has ut for guod, which is the fame thing, as How as

I must observe, that our Author, a little below this, speaks not only idly but loosely, when he adds, "As to John, the Honour of being Stew- ard of Scotland, might be confirm'd to him by "the said Act of Parliament; for it did not belong "justly to him, till the Marriage was sustain'd." Mr. Logan has a strange way of jumbling Things together. Neither he, nor the Parisian Antiquaries are speaking of an Act of Parliament, but of a Charter. Besides, that Act of Parliament can be no other than that which he before, in p. 107. and in p. 120, next after this, will have to be an Act legiti-

(6) Hift. p. 168. Quod à multistraditure del 1014 (8)

Tegitimating Robert II.'s Children by Elizabeth More. But that Act past in the Year 1271, i. e. about three Years (even according to himself and our Histories) before Q. Eupheme's Death: Which renders it absolutely impossible for Robert's Marriage with Elizabeth More its being sustained; unless the Parliament allow'd him two Wives at once, which is more than ever Pope did, tho' it is faid that Luther, or some Protestant Divines in Germany, indulged a Prince of Helle that Favour. I hope our Author will not pretend that was the Case here; and yet since both in the Father's and in the Son's Charters, granted this same Year 1271, John is Stiled Steward of Scotland, he must have had that Title before his Mother was married. for a fecond Wife, to the King, upon the Death of the first, (according to Buchanan) Anno 1272 or 1274. Yes (will our Author perhaps fay) that Title might have been confirmed to John afterwards by Act of Parliament. But how could either King or Parliament give or confirm that hereditary Office to John, who, if he had been then a Bastard. could have had no Title to it? That Office. which his Father, now being King, could not exercife himself, did naturally belong to his eldest lawful Son and Heir, which had not Fohn then been, it must have fallen to his Father's undoubted lawful Son David Earl of Strathern.

But why should our Author be at the Pains to reconcile Buchanan's Words with those of the Charter, mentioned in the fifth Argument (as he calls it) of the Parissan Antiquaries, when in his p. 94 and 95. he has so beaten down both it and another granted by John, and given them, in his M m 2

Opinion, so many mortal Wounds, that they can never rise up again? But as he refers us to those. Pages of his, so do I to my Answers, p, 207—219.

Hz comes next to what he calls the fixth Argument of the Parisian Antiquaries, viz. that famous Deed of the King and Parliament, Anno 1271, by which Fohn is acknowledged, declared, and recognized his Father's true and lawful Heir and Successor to him in the Kingdom. The other Deeds and Charters he has made a Shift to get rid of, by all the Arts he could devise, of finding Flaws and other Marks of Forgery in them, and thereby, in his Conceit, blafting their Authority. But these would not do with this Parliamentary Deed. Its Genuineness is not to be called in question. It hath been feen by Sir Lewis Stewart, Sir George Mackenzie, my Lord Cromarty, Mr. Hay, myself, and hundreds more; and is yet to he seen in our publick Archives, by our Author and whoever else has a Mind. The Earl of Cromarty has fet it down at full length, as has also Mr. Hay; and both, especially the latter, have deseribed the several Seals appended to it, and the Persons to whom they belong. The Genuineness of it therefore being so firmly and invincibly certain, that it is not possible to get over it, what must our Author do with it? Why? other Methods must be fallen upon, which, tho' different from the former, yet he hopes will do his Business as effectually. And what are these? Very bold and strange ones indeed, and which, I believe, could never have entred into any Head but our Author's own. He is to prove, that all who have feen or commented on that Act, have quite mistaken

ken the Meaning and Import of it. " For, fave be Ino doubt when understood as he would have it? " it rather militates against the Advocates for " John's Legitimacy, than makes for it; because " it does not in the least infinuate, that before it " past, John was the lawful Heir of the King. dom, as our Antiquaries affert; but in it the "King and the Estates declare, That be shall be " Heir of the Kingdom, i.e. that he shall succeed " to the Crown upon the Demile of his Father: " It declares, That be shall be and ought to be bis " true lawful Heir, that be shall succeed and " ought to succeed, that he shall fit and ought to " fit on the Throne of the Kingdom: So that all " the Charters these Antiquaries and other Advo-" vocates have produced, which are of a Date " prior to this Act, when they speak of John's being Heir to Robert, are not to be understood " of his being Heir to the Kingdom, but to the " whole or a confiderable part of his personal E-" state: None of them calls him verus & legiti-" mus heres, as this does; and this Act having gi-" ven a Determination in this Matter, it lays, " that he shall be, and ought to be, bis true lawful " Heir, Erit & esse debet verus & legitimus he-" res, viz. of the Kingdom. For had he been " this before, it was altogether impolitick, if not " nonsensical, to say, That be shall be, and ought " to be, his true and lawful Heir." After which our Author cries out, " It must be furprizing, " and beyond all Comprehension, to find, that the " learned Antiquaries make this A& an Argument to support their Cause, when it for ever destroys it to all Intents and Purpoles; especially when logo .. ne is mittaken, the near Hote will

Parliament are procured to it, but their folemn Oath is interposed for maintaining that Succession: But further, that there might be no Dispute about this Succession, or Opposition be made to it, John [our Author certainly meant Robert, for he would not have John to have married his Mother] married Elizabeth Muir, by which Marriage her Children were legitimated, and had the Benefit that Children lawfully begotten have." Thus he. But can there be any thing more astonishing, than to see a Man, calmly and deliberately, huddle together so many Errors, Absurdities and Contradictions, as our Author has here done in one Page? For,

1. Тно' he may please himself with the Artifice, yet I do not fee how any Man of Candor can approve the Unfairness of it, that in his giving us fuch a Part of that Act, as he thought would make fomewhat for his Purpose, he has wilfully put his Thumb upon a Clause of it, which at once dashes all his fine Reasoning to Pieces. He begins what he repeats of it thus, Rex volens \_\_\_\_ cum abundanti (c) & unanimi confensu & affensu dictorum pralatorum, comitum, procerum, & magnatum, &c. Whereas the Act has it, Rex volens, more & exemplo celebris memoria ejustem boni regis Roberti avi sui, coram clero & populo successorem & verum beredem suum declarare ibidem, licet de ipso clare constitit atque constet, en abundanti, & unaall Competition

Amiquaries make this A& an Aron

<sup>(</sup>c) Our Author has cum abundanti, instead of ex abundanti, (as there, and twice after, it is in the Original) that he might, as he does afterwards, construe it with consensu. But how far he is mistaken, the next Note will shew.

nimi confensu, &c. Let us now see how these Words, LICET DE IPSO CLARE CONSTL TIT ATQUE CONSTET, i. e. altho' it was before, and still is clearly manifest concerning him, i. e. who the Person is that is Robert IL's Successor and true Heir ; yet ex abundanti, is e. over and above, and for the further Manifestati, on and Confirmation of the Matter (d), be with the unanimous Confent and Affent, &c. can possibly confift with our Author's Words, that this Act does not in the least infinuate, that before it past, John was the lawful Heir of the Kingdom. For does not the King here, not only infinuate, but in as express Terms as can be devis'd, affirm, that before this Act past, it was manifestly known, that John whom he deligns his first begotten Son, Earl of Carrick and Steward of Scotland, was his true Hein and ought to be his Successor in the Kingdom? When our Author can bring the two Poles together. he may, but not till then, reconcile his Words and those of the Act to one another. But,

1. HE fancies he has got something that will support his Assertion, from these Words of the Ass, erit & esse debet verus & legitimus heres suus, i. e.

It in more Right to it, than the Dog of Den-

<sup>(</sup>d) This is the true Import of that Phrase ex abundanti, i. a supervacuo. Both the Earl of Cromarty and Mr. Logan have quite miltaken its Meaning. The former renders it, and might, abundantly be known by the unanimous Confent and Assent, &c. construing it with assue constet, which went before: The latter construes it with assue constet, which went before: The latter construes it with consensus, and cenders it with the FULL and unanimous Consent, &c. Whereas it is a Phrase standing by itself: For which see Brissonius de verborum significations, who texplains it, and gives us Examples of it from Quintilian and Sanca, but sespecially from the great Lawyer Papinian who uses it very frequently.

as he interprets them, " Tho' he was Herr to a Part or the whole of his Father's personal Estate before, yet he was never, till now, that his Father with the Consent of his Parliament, made "him fo, Herr to the Kingdom." This is our Author's Text, and I leave it to himself to judge if what follows is not a plain Paraphrale of it. John, Robert's Son, was nothing before but a Ballard, and as fuch had hardly a Title to any Thing; yet because his Father had such a Fonder nels for him, as to make him Heir to his perfonal Estate, some time, nay many Years before, and did not only himself frequently defign him, but had got King David of Scotland, Edward III. Men of both Kingdoms, and others, to call him his Heir; this, the most obsequious of all Parliaments, possest it seems with the same frantick Dotage, will needs, in Compliance with the wild Inclinations of a Father, make, constitute " and ordain this Bastard of his, to be his true and lawful Heir, and of Course his Successor in the Kingdom: tho' at the same Time he and they wery well knew, not only that he had otherwife no more Right to it, than the Dog of Den-" mark, or the Man in the Moon; but also that the same Father had at that very Time, two or more Children, by a Marriage unquestionably Sawful, and whose Right to the Crown after his Decease, was of Confequence indisputable." 3. But are not the Words of the Act, fays our Author, beres exit, and not beres est? And do not these import that John was not yet Heir, but was only to become to? Yes certainly, but not in our Author's

Author's Sense. John then was, and had been for a great many Years before, perhaps from his Infancy (as being the eldeft Son.) his Father's Hein apparent; but he was not to become his real Heir. i. e. Successor, till after his Death. This is clear from that well known Law-maxim, that NEMO EST HERES VIVENTIS, according to which are the common Formula juris; Titius beres meus esto: Titius & Mavius beredes sunto, &c. Which shew that none are strictly and properly Heirs, till the Death of those that institute them, or naturally ought to have them their Successors. And this shews how properly and accurately this A& of Parliament is in that Place exprest. Had not the Framers of it taken the Words beres erit, in that their firichlegal Sense, and not in that of our Authors the one half of the Ast would flatly contradict the other. Our Author should have remembred, that he himself, p. 20 after the Earl of Warington, p. 13= tells us that Heir and Successor are synonimous Words, If fo, that Act could not fay in that Senfe, Heres est, no more than Successor est in otherwise he that is fo named must be in present Possession, which is a Contradiction. There are belides in this Act, the Words & effe debet, and succedere debet; which our Author, had he been cautions es nough, ought also to have dropt, or skipt over: For they likewise shew, that this Act was not authoritative, but declarative, plainly importing that the Right of Heirship, which, tho not to take Place till the Death of the Father, was inherent in and due to John, before this Act was made There is also something in the Words berus and legitimus, and the folemn Oath they took, in Token Nn

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of their Sincerity: For, if John was not before that Time his true and lawful Son, they could not swear that he was so, especially to the Disherishon of a lawful Son, David Earl of Strathern, who, if John was then but a Bastard, had the only true and undoubted Right of being his Father's Successor.

THERE is one Thing more, before I leave this Ad, which I know not whether I should take no tice of, or not, in our Author; for it passes my Comprehension. In the End of this Paragraph of his, he has these Words, and But further, that there might be no Dispute about the Succession, or Opposition made to R, John The Should have ( faid Robert) married Elizabeth Muir, by which Marriage the Children were legitimated, "and "had the Benefit that Children lawfilly be e gotten have? What montrous ABfurchties have we here! Does our Author mean land vet nothing elle can he, by what he has faid before, possibly mean,) that at or before the Date of this Act, 27th March 1371, King Robert was married to Elizabeth More, and that thereupon his Son John was by this Act of Parliament legitimated, and put in a Capacity of being his Father's Heir and Successor? How could this be, when Robert had another, and that a lawful Wife, who was then, and for two or three Years at least thereafter, living, and for ought appears in good Health. Our Author has no other Way of coming off, but by giving up with those his darling Historians, Fordon's Continuator, Major, Boece, Lefty, Buchanan, and his Chronological Tables, who all place Queen Eupheme's Death to the third Year of King Robert IL's Reign, i. e. onno 1373, or 1374. Tho'

Tho' the first of these, as I said before, forgetting himself, prolongs her Life to the Year 1387, i. e. 16 Years after the Date of this Act (2).

and Iniliary in M. Sain Cheir Library in which

(e) The what I have faid is more than sufficient to overturn the strange Gloss our Author puts on that Act of Parliament; yet I might add, that besides these I have mentioned, there is hardly a Sentence in it, which does not directly stand in Oppofition to what he advances. As, 1. The Title or Defignation John goes under, by which he is stiled his Father's Primogenitus, and Senescallus Scotia; which plainly supposes he had these Titles before this Act was made. He had been always his Father's Primogenisus, but could not be Senescallus Scotia till his Father came to the Crown; by which, that high Office, which the Father, being now King, could not possibly exercise himfelf, did necessarily devolve to this his eldest and also lawful Son: Which, had John not been, sdid justly belong to the eldest Son of a lawful Wife, viz. David Earl of Strathern. 2. The UNANIMOUS Confent and Affent of, I may fay, the whole Community of Scotland; and that exprest in the strongest Terms imaginable, voce propria and fingulatim: And again, Tota multitudo, tam cleri quam populi, unanimi voluntate & clamore consono, nullo penitus reclamante. - Which, had John been a Bastard, and another lawful Son existing, is utterly inconceivable. Especially as, 3. They in a most solemn Manner did with uplifted Hands fwear, that Unufquifque Pralatorum, Comitum, erc. eum pro Rege & herede legitimo patris sui habiturus erit. For, can it be imagined that a whole Nation to a Man, would perjure themselves, in swearing that a Bastard, who had no Right at all, was, or was to be, his Father's lawful Heir, when he had other lawful Children then actually existing? 4. The Verbs used both by the King himself, and by his Parliament, indicavit, afferuit, recognovit. declaravit, and affirmaverunt, recognoverunt, voluerunt, Co. evidently shew that this Deed was not so much an Act of their Will, as of their Understanding, i. e. of their certain Knowledge and full Persuasion that John was of before his Father's lawful Son and true Heir apparent, and who therefore ought, by just Right of Blood, to be his Successor. Particularly the Words recognovit and recognoverunt put the Matter beyond all possible Doubt. For what is recognoscere, but denno cognoscere, to call to mind what was known before, .... accordOur Author comes at last to the seventh Argument, as he numbers them, of the Parisian Antiquaries, which is, "That they have an old Scot-" tish History in M. S. in their Library, in which "there is not the least Mention of that Parliamentary Decree concerning John's Legitimation. "This

Darrier a Senicace in it, which does not elimited by finding Oppoaccording to that of Cicero, Att. in Verr. i. eap. e. Neque enim mihi videtur bac multitudo; qua ad audiendum convenit, COGNOSCERE ex me caussam voluisse : fed ea; que seit, mecum RECOGNOSCERE. 3. Nay, in this very Act, the Word Herer is taken in the common Acceptation, for the Heir apparent, where it is faid, Idem Dominus Ren - proponi fecit in publicum, qualiter, ex abundanti, See the Note above, p. 279.) indicavit & declaravit, prufatum Deminum Joannem, fitium suum primogenitum, verum suum Heredem, PROUT EST, ET ESSE DEBET DE JURE, & post mortem fuam, regni Scotia, volente Deo, Regem FUTURUM, i. e. as he now is, and ought to be of Right, his true Heir, and after his Father's Death is to be King of Scotland; where the Words PROUT EST and FUTURUM are contra-diffinguished; the one fignifying that he then was his Father's true Heir apparent, and the other that he was to be his real Heir or Successor after his Father's Death. Is it possible for Words to make a thing clearer? The Earl of Cromarty and Mr. Hay have read the Words wrong, instead of prous est, e esse debet punc effe weffe debere. ] But the Sense is the same either Way. 6. and laftly. The fame Diffinction is made a little below in these Words, Affirmaverunt, recognoverunt cy volverunt io fum Dominum Johannem, tanquam primogenitum & teram Heredem Domini nostri Regis, patrie fui, fuum fore Regem futurum. By which is plainly fignified, that the States of Scotland did therefore recognize his Right to be King after his Father's Death, as being then, or because he then was, his father's First-begotten, and consequently his then true Heir. The Words TANQUAM PRIMOGENITUM & VERUM HE-REDEM being coupled together, evidently declare that John was both the one and the other in his Father's Lifetime; and that he was no more to become his Father's Heir, in the common Acceptation of the Word, after his Death, than he was then only to become his First begetten; for that he had been always from his Birth.

This Argument they own to be a negative one, " but they think it ought to have great Weight in this Matter, as the Author testifies, that he was born anno 1386 or 1387, in the Reign of This very Robert IL and infifts much on what re-" lated to the Genealogy of our Kings." Our Reverend Author however, will not allow any Regard to be paid to this M. S. History, because the Writer of it bas not given us his Name, and cans not tell whether he was born in 1286 or 1287. To which I answer, that a Book of historical Marters, especially if writ in the Character that was used in or near the Time it treats of, as I suppose this is, tho' the Author is anonymous, is not to be flighted. This I know, that fuch Books are frequently cited, and relied upon by very learned Men. Our Author will not have that M. S. History to be regarded, because the Writer cannot precifely pitch upon the Year in which he himself was born; " Strange! fays be, that none of his "Relations, or none of the Neighbourhood of the "Place of his Birth, could fo much as inform " him of the Year." There is no fuch Strangenels in the Matter as he imagines. No Man can know the Year he was born in, but as it is upon Record, or is related by others that were born some time before him. The former of these may be, and frequently is, either neglected to be kept. or loft; and the latter may have forgot. known Fathers and Mothers, who could condescend on the Day of the Month, and Hour of the Day, in poich some of their Children were born, who we could not be sure of the Year. There are I be we some Scores of People in E. dinburgh,

dinburgh, that cannot fix upon it; and I myfelf knew fome fuch, particularly two Doctors of Me. dicine, of good Character and Reputation, in this Place, who could not affign the Year; with whom however I have oftimes celebrated the Day of the Month in which they had their Birth. That therefore this un-named Author is fo ingenuous as' to own, that he did not know, whether his Birth was in the Year 1286 or 1287, is to me a Sign of his Veracity, and that he is the more to be credited in what he relates. As on the other Hand. that he omits to write of a Thing, that he could not but readily know, and which was otherwife of confiderable Importance, gives me no fmall Ground to believe that fuch a Thing did never happen. But what fignifies it, whether we are to have any Regard to that Historian (which the Parisian Antiquaries bring in only by the by) or not; fince the Mater is put beyond all Doubt by other 

and 123, concerning the Earl of Douglas his Claim, and what moved Walter Earl of Athol to murder King James I. as having spoke of them already, p. 191. and that the present Dispute is very

little concerned in them.

this p. 123. and the two or three following, concerning Johannes Major, whether his Accounts of Robert II.'s Marriages are the same with that of most of our other Historians, or not I have yielded that he has trode in the same Path with them: But let him and ten thousand more be added to their Number, we have what infinitely outweighs them all.

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THE Reverend Author having in his Opinion, overthrown all the Arguments brought by the Pa rifian Antiquarians, comes next, p. 127. to confider the Attestations brought for their Charter An no 1264. He and his Friend Mr. Arwood have mus ftered up all the Topicks they could think of, to invalidate the Authority of that Charter; all which I can fay, without Vanity, I have either, in my Preface to Mr. Ander fon's Diplomata, or above in this Treatile, reduced to effectually, that he must have a wonderful Afterance that will pursue them any further." Tis true, neither the Earl of Cra marty, Sir Fames Dalrymple, Mr. Suge, nor I, and some others who mention it, did ever fee that original Charrier, but took it upon the Faith of Mr. Inner the Publisher, and the many Attestations given of its Genumenels, by a great Number of Persons of high Rank, but especially of these most learned French Antiquaries, than whom the World could not afford more competent Judges. Thefe Attestations therefore being so strong, and so many, and our Author feeing, that his great Diana, his popular Scheme of Government, is in no small Danger of fuffering by little he employs no fewer than ax Pages, to baffle and run down the Credit of the Artesters. What he objects to the Credibility of their Testimony, may be reduced to the following Arricles.

I. THAT this Affembly was a packt Meeting of Papifts, ready to serve the Interest of a Popish King; and these, to be sure (whatever Quality or Learning they may be of) are one and all of them, in his Eyes, such vile Creatures, that no Credit is to be given to any thing they write or put their Seal

Seal to But, though I am not of that Communion, yet I hope it will be no Crime for me to fave that I have known some of that Church, on whose Honesty I would more rely, than of many that give themselves out for the most staunch Protestants, 2. He in particular rejects the Testimony of F. Mabillon, because he calls, King James VII. Regum optimus, and adds, That he that could fay this, may after it, attest the greatest Untruth. That unfortunate King, I charitably believe, was, in his private Capacity, a good Man, the his Bigotry to his Religion made him prove a very unwife King. and increach upon the Laws that had established the Religion of the far greater Part of his Subjects But our Author should confider, that these very Laws which he broke through, did equally debat Dissenters, of all Denominations, from all Places of publick Truft, and from the publick Exercife of their Religion, as well as Papifis. But how did these Dissenters, and especially those of the Presbyterian Persuasion, magnify and extol that King to the Skies, for breaking through thefe very Laws that laid the same Restraints upon themfelves, as they did on the Papifts? Of the many fullome Addresses presented to his Majosty on that Occasion, I shall give our Author one Instance in the Margin, which he may read or not as he pleafes (f). And

The Humble ADDRESS of the Citizens and Inhabitants, that are of the Presbyterian Perfuation in the City of Edinburgh and Canongate;

May it please your most Excellent Majesty,
WE cannot find suitable Expressions to evidence our most
humble and grateful Acknowledgments, for your Majesty's

And I leave it to other Readers to judge, when

jesty's late gracious Declaration, by which we are happily delivered of many sad and grievous Burdens we have long groaned under; and (all Restraints, to our great Joy, being taken off) are allowed the free and peaceable publick Exercife of our Religion; a Mercy which is dearer to us than our Lives and Fortunes. Could we open our Hearts, your Majesty would undoubtedly see, what deep Sense and true Zeal for your Service, fo furprizing and figual a Favour, hath imprinted on our Spirits, for which we reckon our selves highly obliged (throwing our felves at your Majesty's Feet) to return your most excellent Majesty our most humble, dutiful and hearty Thanks: And we defire humbly to affure your Majesty, that as the Principles of the Protestant Religion. which according to our Confession of Faith we profess, oblige us all the Days of our Lives, to that entire Loyalty and Duty to your Majesty's Person and Government, that no Difference of Religion can diffolve, so we hope, and through God's Affiftance, shall still endeavour to demean our selves in our Practice, in such manner, as shall evidence to the World the Truth and Sincerity of our Loyalty and Gratitude. and make it appear that there is no Inconsistency betwirt true Loyalty and Presbyterian Principles. Great Sir! We humbly offer our dutiful and faithful Assurances, that as we have not been hitherto wanting, in that great Duty, which our Consciences bind upon us, to pray for your Majesty; so this late refreshing and unexpected Favour, will much more engage us, in great Sincerity, to continue still to offer up our Desires to the God of Heaven, by whom Kings reign, and Princes decree Justice, to bless your Royal Majesty's Person and Government; and after a happy and comfortable Reign upon Earth, crown you with an incorruptible Crown of Glory in Heaven, to which is most ardently prayed for, by,

to sistamic on many Moft Dread Sovereigns mon

Your Majesty's most humble, most loyal; most dutiful, and most obedient Subjects.

Subscribed in our own Names, and by Order of the Citizens and Inhabitants of the Presbyterian Perswasson, within your City of Edinburgh and Canongase.

London, Printed by T. N. and Reprinted at Edinburgh by the Heir of Andrew Anderson Printer to his most Sacred Majesty. City and College, 1687. ther the Subscribers to such an Address, or F. Mabillon, deserved best to be believed; and whether the After-conduct of the one or the other was most of a Piece: Especially when it is notoriously known to the whole World, that those who were the most forward this Year 1687 with their Hosannah's, were the very next no less forward

with their crucifige's.

thor, attest that this Charter is ancient and written in the Character of these Times; but, though they publish other two Charters, yet they did not compare the Characters of this with the Characters of the other two. A fine Argument this, i. e. tho' these Antiquaries had seen a thousand ancient Charters wrote about the Time, and in the same Character this is writ in, yet because they did not compare it with such others as our Author would have them, their Testimony is not to be relied on: Or, in other Words, tho' they had tried a Piece of Gold with several good Touch-stones; yet because they did not bring it to our Author's Touch-stone, it must be counterfeit.

4. NEITHER, says he, is this, nor the other two, subscribed by Robert and his Son John; so that the Comparison of Subscriptions, which is a Mean to know a Paper to be genuine, is wanting. How oft has our Author been told, that in those Days, and generally ever since, neither the Granters of Charters, nor the Witnesses mentioned in them, this subscribe their Names to them? When our Author brings one Charter so subscribed at that Time, it alone shall be genuine, and all the rest

spurious.

5. " THERE are, fays be, some in Scotland, " who have the Assurance to assert, that the Let-" ters &c. faid to be written by Queen Mary to " the Earl of Bothwell are fictitious, tho' the Ge-" nuineness of them was attested, and sworn to " by the Earls of Murray and Morton, the Bi-" shop of Orkney, the Lord Lindsay, and the "Commendator of Dunfermline. And yet thele " same Men will believe the unsworn to Attesta-" tions of these French Antiquaries." But is it possible that Protestants should swear to a Falshood, and Papists attest a Truth? Whatever our Author may think, I am one of those, who has the Assurance to tell him, that it can be demonstrated, by incontestable Evidence, that these Letters, &c. attributed to Queen Mary, were none of hers; and that these brave Protestants, who swore they were hers, were themselves the Forgers of them. That Papists may tell, or swear to an Untruth, is very possible, and there have been Instances of it: But that so many of them, and of so great Character, when they had small or no Interest of their own to ferve, should do it, I cannot easily believe. That they speak Truth of the Matter before us, is further and most certainly confirmed by this, that a Copy or Extract of this very Charter is in the Advocates Library, which Sir James Dalrymple (as true a Protestant as our Author can pretend to be) declares he faw, and was fatisfied with the Genuineness of it; and any body that pleases may yet see, and (if he has any Skill of old Writs) may be convinced by the Character, that it was written at the Time it mentions, viz. Anno 1556, near 200 Years ago. This alone, were there no-002

thing else, puts the Veracity of these Gentlemen beyond all possible Doubt. However, I shall go on with our Author's other Objections, and it will be almost sufficient that I barely name them.

6. THESE Attestations, says he, were not made upon the Words of Priests, nor the Honour of Gentlemen, nor upon Conscience and sacred solemn Oath; as were these made by the Letters sent. to the Earl of Bothwell by Queen Mary. Very. true; and yet these last not only might be, but, really were, false, and these others most certain and true. These French Gentlemen give their Attestations in such a manner, as all others of that kind are given: But our Scots Worthies had Matters of greater Consequence upon their Hands. A Queen was to be deposed, a new Religion to be set up, the Church Lands to be seized on, great Honours and Wealth to be acquired, and all Oppolers to be knock'd in the Head, or forfeited, beggar'd and banished. And how were these great Ends to be compass'd? Why? one great Affidavit will do the Bulinels: And why should these excellent Reformers, that had gone so far, stick at that? But their Wickedness went yet farther; for, to make the thing fure, they fwore what no honest Man can swear; not (as they ought) that THEY BELIEVED, or HAD GROUND TO THINK, that these Letters to Bothwell were written by Queen Mary: But they swear point blank, that these Letters were UNDOUBTED-LY HERS; when it is well known, that there were then, and have been in all Ages, Persons that could so exactly counterfeit the Writ of others, that those concerned in them could hardly distinguish 0 0 2 a midz

guish the true from the false; and is so, the Earl of Murray, and others that gave that Oath, were really perjured, tho' these Letters had been Queen Mary's. For he that swears to a thing that he is not sure to be true, is as much perjur'd as he that swears to a thing that he knows to be false.

J. THE Scots Noblemen and Gentlemen that faw that Charter, could not attest as they do, that they found it entire, when the Witnesses do not subscribe it. There is no End of our Author's Subscriptions: These Gentlemen attest, that they saw all that was to be seen; and if the Witnesses to Charters did not subscribe them, how could they see them, or look for them?

8. THERE have been, fays he, many Charters given out for genuine. particularly fuch as contain Homages paid by our Kings to those of England, which yet have been demonstrated to be Forgeries. True, but does it hence follow, that every other Charter, and this in particular, is a Forgery?

9. THE Attestations given to that Charter by the Scots Noblemen and Gentlemen that saw it, turn all upon the Faith of those learned Antiquaries. Tis true, they pay that Deference that was just, to those of a Skill sar superior to their own in these Matters: But they also declare, that they were present at the Examination of that Charter, that they likewise inspected it, and sound it entire; and that, they thought, was all that was incumbent on them.

10. SOME of them had changed their Religion, fome of them were disobliged because King William had not preferr'd them to Posts, and none of them give their Oath to what they attest." But will our Author

Author fay, that such Things as these did utterly incapicitate them from bearing Witness to a plain Matter of Fact? Well, let these, to please our Author, be laid aside; were there not others, who had not changed their Religion, and whom King William had not disobliged, may not their Testimonies at least be admitted? As to our Author's Oaths, there were among that Number several Noblemen; and if the bare Word of Honour of such will take away the Heads of others of that Rank, might it not be sufficient in a Matter like this?

of the Scots Nobility; but they were not all of this high Rank. The Prefator's Words are, Prasentibus etiam ex Scotorum nobilitate primariis, which do not fignify the chief, but some principal Persons of the Scotish Nobility. And was not that true, (as our Author names them) four Earls, two Viscounts, two Earls Brothers, and one Lord's Brother, besides several Gentlemen of good Note; in all no fewer than twenty one?

ther the Designation of Witnesses is necessary in France, I know not; I am sure it is not necessary in England, nor was in Scotland till the Year 1681 (g)? But will not the other eleven who

are delign'd, be sufficient for the Purpose?

no modmuodi saw sah ila sawa, sheuc 13. WHE.

the first Words whereof are, Our Sovereign Lord considering, that by the Custom introduced, when Writing was not so ordinary, Witnesses insert in Writs, altho not subscribing, are PROBATIVE Witnesses, and by their Forgetfulness may eafily

12. WHETHER they were learned Men, as the Publisher (says our Author) calls them, we know not, or if they knew much about ancient Char. ters. 'The Publisher speaks nothing of the Learning of those ten, nor indeed of any of the other Scotish Noblemen and Gentlemen that were prefent, but only of the Learning of those French Gentlemen, to whom the Examination of the Charter was principally committed. As for the rest, they attest no farther than their Knowledge (whateyer that was) reached. But with all Deference to our Author, I think I may affirm, that the most unlearn'd among them, feems to have had as much Knowledge of ancient Writs as he has; unless (which I am afraid is the Case) he has thought fit to conceal or dissemble it. For, as far as I can gather from his Reasoning, one would be apt to think, that he had never feen so much as one original Charter, written in those Times.

St. Germans, viz. the Earls of Perth and Lauderdale, were not at this Meeting. From which our Author would have it thought, that these Noblemen were the only Men of Conscience, and because

fily disown their being Witnesses. For Remeid whereof, his Majesty, with the Advice and Consent of the Estates of Parliament, doth enact and declare, That only subscribing Witnesses in Writs to be subscribed by any Party hereaster, shall be probative, and not the Witnesses insert not subscribing: And that all such Writs to be subscribed hereaster, wherein the Writer and Witnesses are not designed, shall be null. Which Adplainly supposes, that neither the Subscription of Witnesses, and far less their Designations, were necessary to make Writs probative before that Time. Had our Author known or considered this Act, it would have say'd both him and me a great deal of Trouble,

they chose rather to be absent, than to attest what they did not believe. But might there not have been many Reasons for their Absence, other than what our Author would here insinuate? But I will tell him farther, that the former of these, the Earl of Perth, having been two or three Years after the Revolution a Prisoner in the Castle of Stirling, was afterwards dismiss'd, but upon Condition that he should not go to the Court at St. Germans. The other, the Earl of Lauderdale, was dead before that Time.

and Barons were called to this Meeting. But how came that about? For no other Reason, but because the Disquisition was about an old Scotish Charter, in which they thought their Nation was not much concerned. But were not the Testimonies of 8 of the most learned Antiquaries in France, and of 21 Scots Noblemen and Gentlemen, sufficient to attest the Truth of one Charter, without calling in the Assistance of those of other Nations?

Thus I have gone through all the doughty Objections brought against this samous Charter Anno1364, and the Attestations given for the Authenticity of it. And by this time I hope, that however numerous these his Objections are, it will appear, by what I have said, that it stands as firm as
ever, and that none of our Author's bruta fulming
have reach'd it, or come near it.

And son of alker or mallered or or posternied and Bland

derest that A2t, descould have the'd both him and me a great

BUT, alas! Suppose our Author had got the better of this Charter, his Task is only but begun, for he has other strong Enemies to grapple with, I mean the great many original Documents brought by the Earl of Cromarty, Mr. Rymer, and others; which, tho' that Charter were laid aside, equally militate against, and, if Care be not taken to prevent it, will no less destroy his whole Scheme. Our Author however, whom nothing can intimidate, is resolv'd next to fall upon them, and seems to promise himself, if not a cheap, yet at last a

complete Victory over them.

THESE Charters and other Writs are brought to prove, that John the Son of Robert II. was univerfally acknowledged his Father's First-begotten Son and Heir; and consequently of a lawful Marriage, long before the Death of Queen Eupheme Ross, contrary to what he and most of our Historians affert. He had before thought to evade the Force of this Argument, by affirming that by the Word Heir, no more was meant, than that he was Heir to his personal Estate. But being afraid that fuch a Position (the Weakness and Absurdity whereof I have fufficiently expos'd above) would take with few or none of his Readers, he now goes more roundly to work, and applies himself to prove, that most of these Instruments and Deeds are as much spurious and supposititious as the Charter 1364.

And first, p. 135. he begins with the Charters mentioned by the Earl of Cromarty; and as to the first five of them, which were granted in the first Year of King Robert II.'s Reign, tho' elsewhere P p

he questions their Genuineness, yet here he chuses to elude them by his old Topick, that John's being there called in them his Father's First-begotten and Heir, imports no more, but that he was Heir to his private Estate. But of this too much already. brunche by the Earl of Comerte, Mr

HE speaks next of the Act of Parliament anno 1371, and tells us, that he had shew'd before, p. 121-133, that this Act is sufficient by itself to overthrow all that the Earl and the Antiquaries bave advanced for the Legitimacy of Robert III. But he might as well have faid, that he had shew'd that Snow is black, Fire cold, and Water

dry (b).

ag Callors and other HE goes next to a Charter mentioned by the Earl, as also by Sir George Mackenzie, confirming a Mortification made by (not to, as our Author has it) Reginaldus More, in which John is called Robert's First-begotten and Heir. But, says he, the Earl owns it wants a Date, and so must merit no Regard. However he must allow me to tell him, that it not only merits Regard, but proves all that the Earl produced it for. 'Tis true, it wants the Date; and that probably has happened by the Negligence of the Transcriber; for Sir George Mackenzie (who 'tis likely has seen the Original) places it in the Year 1365. But 'tis not material, in the present Case, whether it has a Date or not: For from it we learn, that this Charter was granted by Robert II. when he was only Earl of Strathern, and his Son Lord of Kyle; i. e. some Years at least before the Father was King. It is also remarkable, agra gray, dollar umodnilo svil (that that both Father and Son are joint Granters of this Charter; the Father, as Patron of that Abbay of Paisley, of which his illustrious Ancestor Walter the Son of Alan, Dapifer Scotia, was Founder, anno 1168, and the Son, as Lord of Kyle, in which the Lands therein mentioned do ly. And this also verifies that (as the Earl of Cromarty observes, p. 45.) the Father did share his Honours and Estate with John his Son, at that Time: Which, had he been a Bastard, it is not to be supposed he would have done.

The Earl, p. 45. gives another Charter from the same Register of Paisley, by the said Robert Senescallus Scotia, confirming all Gifts given by his Predecessors and himself to that Monastery, dated anno 1361, which was about ten Years before he was King, in which Johannes Senescallus, Dominus de Kyle, primogenitus noster [he ought to have added & heres] is one. But our Author (being resolved to be bound by nothing) rejects it, because it mentions neither Day nor Month. The Earl thought it sufficient to name the Year; but if that will not satisfy, I can now tell him, that in the said Register, p. 210. the real Date of it is, Apud Clunie vicesimo die mensis Julii, 1361. Which is again repeated in an inspeximus Charter of the Son, Robert III. dated Apud Linlithgow, sexto Aprilis, anno 1396, anno regni 6.

THE Earl, in the same p. 45, mentions and inferts a great part of another Charter, recorded in the said Register of Paisley, p. 119. wherein Robert Earl of Strathern Steward of Scotland, and John his First-born and Heir, Lord of the Barony of Kyle, give Seisin to the said Abbay of the Lands

P. p. 2

( 300 )

therein-mentioned. This Charter proceeds upon a Submission entred into betwixt the Abbot of Paifley and the Monks of Simpringham in England; Andrew Kelcho appearing as Procurator for the one, and Reginald More as Procurator for the other, 13th February 1328. But fee how our Author perverts Things; "I am amazed, fays he, " that the Earl makes Use of it: For, besides " that it has no Date, Robert himfelf, according to the Parisian Antiquaries, was born anno " 1315, and according to Mr. Sage, anno 1316. " Now, is it to be supposed that Robert granted "Charters when he was only 13 or 14 Years of " Age? Again, supposing that he was born anno " 1315 or 1316, we must suppose that as that "Time he had a Son, even this John; for he joins with Robert in granting this Charter, when he was not a Year or two old (i). Do " not these Things expose this Charter as a gross " Forgery, and give Ground to suspect that the " rest produced in this Cause are no better? If it " is faid, that the Clerk or Recorder has blun-" dered, by recording it in the Register ad annum " 1328, this, with the Want of a Date, was fuf-" ficient Ground for the Earl to make no Use of What strange Work have we here? Our Author, instead of exposing that Charter as a Forgery, as he would have some of his thoughtless Readers to believe, has (and I am forry for it) prodigiously exposed himself. Because the Recorder of

<sup>(</sup>i) He could not in the Year 1328 have a Son at all; for himfelf was not then 13 Years old, being born (as the accurate Mr. David Simfon informs us) on Thefday the 2d of March 1316, being that Year Fastens Eyen.

that Charter has through Inadvertency left out the Date, must it therefore be of the same Date with another Charter, concerning the same Affair, set down in that Register? There are more than a Dozen of Charters in it, relating to the Controverfy betwixt the Abbot of Paifley, the Monks of Simpringham, Sir Reginald and Sir William Mores fome as far back as the anno 1246, and others asfar down as anno 1374: Must they be all of one Date? Or if one wants the Date, may we give it what Date we please? Does not the Earl himself give a pretty full and accurate State of the Matter? And does it not, from what he has given us of that Charter, appear that there were other two Deeds or Instruments drawn up and agreed to before it; and itself at a good Distance of Time after both? The first is that Submission the Earl speaks. of, 13th February 1328. Upon this followed an Obligation of Sir Reginald More, anno (as I suppose) 1330, wherein he binds himself to free the Abbots of Paifley from the Payment of 40 Marks Sterling yearly to the Monks of Simpringham; and subjects the Lands therein-mentioned, voluntati, ordinationi & cognitioni Senescalli Scotia qui pro tempore fuerit, Patron of the said Abbay, and Superior of the faid Lands; that he the Steward of Scotland, in case of Failure, should give Seisin of these Lands to the Abbot and Convent of Paifley. Accordingly Sir Reginald and his Son William Mores, having per plures annos, for many Years (k), (so the Charter bears) fail'd in their Promise and Obligation, the Steward of Scotland, and his Son and Heir John, at the Request of the said Abbot, grant

<sup>(4)</sup> Not two Years, as the Earl has it.

grant Seisin to them of the faid Lands. Have we not here three different Deeds, all confequential upon one another, and the last at least many Years after the first? Were there nothing else to Thew this, the Words of the Charter, had our Author been at Pains with any Care to read it, might have pointed it out to him. In the very Beginning, the Words, Cum dudum Reginaldus More, pater Domini Willielmi More militis concesserit, &c. plainly shew that this Reginald, one of the Parties in the Submission, and Granter of the After-Obligation, was dead; and the Words narrating, that both this Reginald, and his Son Sir William. had for many Years fail'd in the Performance of what was stipulated in that Obligation, no less plainly shew, that the Charter of Robert and his Son was granted many Years after. How unaccountable is it then in our Author to draw back the Deed of the Steward of Scotland that followed after all this, to the Date of the Submission 12th February 1328, and to found such chimerical Inferences upon it? should said or whitey milital?

THE Earl had brought another Charter of the Steward of Scotland, wherein John the Son, with his usual Designation, is a Witness; but this, says our Author, must be rejected, because of his Remarks on Charter 1364. We know what he means; it is because in this Charter John is called Lord of Kyle, who in a Charter of King David II. which he will have to be dated in 1350, is design'd Earl of Carrick. This Charter of King David's has been of singular Use to our Author. He will needs fix upon it a salse Date, and employs it as Boys do at a Game called the Nine Pins, where

where one Pin is made to throw over several exthers, and is itself, either thrown down with them, or soon after, at last;

P. 1261 He casts other two Charters mentioned by the Earl p. 50, 5a. one granted by Robent when only Earl of Strathern, with Consent and Assent of John his First-begotten and Heir, Earl of Carrick, to Alan de Lawedre his Tenant in Whitstade. The other is a Confirmation by the Father, when King, of a Charter granted by the Son as Lord of Kyle, to John Fullarton Son of Adam Fullarton Knight, of the Lands of Harperland, &c. The first of these he rejects, because in has no Date. 'Tis true, the Date (as in many others) is omitted, but as Robert the Father was not yet King, and John is stil'd Earl of Carrick. it must have been granted in one of the last three Years of David II.'s Reign. [See above p. 179.] However, we have a Confirmation of it in the publick Records, by the Father when King, and the Date is 13 Junii, anno regni primo, i.e. two or three Years before the Death of Queen Eupheme, which our Anthor, with his Historians, makes to have happened in that King's third Year. The second Charter to John Fullarton, our Author likewise rejects, because it has no Date, and it feems (adds he) it had none. The Earl does not mention the Date of John's Charter, because perhaps it is not extant; but only tells us, that it is confirm'd by the Father, anno regni primo (1), and

<sup>(1)</sup> This seems to be a Mistake in the Earl for Anno regni secundo; for so Mr. Hay has it, as it really is in the Record. There is another Difference between these two; for the Earl calls

and confequently before Queen Eupheme's Death. This last, as also the other to Alan de Lawedre, are printed by Father Hay in his Vindication of Elizabeth More, p. 38 and 94. In both, John has his usual Designation, and the first is, as I faid, dated 13 Junii, anno regni primo, and the se-

deffroys our Author's Scheme.

THE next Charter brought by the Earl of Cromarty, is that of King David in favour of the Bithops; but that, fays our Author, p. 137. wanting a Date, is not probative. What? this Charter, that ferved to overthrow the Parifian Charter 1364, and some others, not probative, because it wants a Date! Formerly our Author would needs force a Date upon it, contending with all his Might that it was wrritten anno 1350; then indeed it was a genuine Charter, and of fingular Use to him; but now, when it is like to do some Mischief itself to his Cause, it must go a packing as well as the rest. But of this too much has been faid already.

THE last Charter brought by the Earl, is the famous Parifian Charter anno 1364. " But, fays Mr. Logan, p. 137. I have already condescendin the Judgment of all unprejudiced Persons, " justly to be a Forgery." But I, not to be behind with our Author in boafting, have, I hope, to the Conviction of all Persons, whether prejudi-

ced

calls the Lands Caine Eafter and Wefter in Kyle-Stewart, and Mr. Hay names them Lathis Easter and Wester in the Barony of Kyle-Stewart. But perhaps the Charter the Earl speaks of, is a different one from that fet down by Mr. Hay.

that they will never be heard of again, till Epicurus's Atoms create a new World.

In the Close, because his Lordship, p. 67. had thought it a good Proof of the Confanguinity which was betwirt Robert and his first Wife Elizabeth More, that this same Robert, in a Charter of his to Sir Adam More of Rowallan, Son of the former, calls him his Kinsman: Our Author rejects this Proof, and refers us back to his p. 103. wherein he tells us, that it is most common for Princes. in their Charters, to call great and considerable Perfons, of ancient Families, their Cousins; and instances in Archibald Douglas Lord of Galloway, and Thomas Ershine, who are called Robert's Confins in that very Charter, as is Sir Gilbert Kennedy of Dunnure, called confanguineus noster, in a Charter of John (allas Robert) published by Mabillen. But is our Author fure these were not related to King Robert and his Son? In those Days. when our Kings contented themselves to take for Wives the Daughters of Noblemen or Gentlemen of their own Country, the Confanguinity that would thence arise betwixt the Royal and other Families, could not fail to spread very far, and bring a great Number of Persons of Rank under the Defignation of Confanguines or Cousins. But that the Name was not given at random to all Gentlemen of confiderable Rank, is evident from Charters given by our Kings to Such, without the Addition of that Appellation. So that, for ought to me yet appears, the Earl's Reasoning seems vety just; but whether it is or is not, is of no Moment Qq

ment here, when the Charter before us expressly bears, that there was such a Consanguinity between King Robert and Elizabeth More, that without a Dispensation, according to the then Laws,

they could not be married ......

Our Author, after having spoken of the Defignation of Coulins, given by our Kings to Persons of Rank, p. 104. tells us, that be could not omit to observe, that the Manner of expressing the Impediment in the Charter is very fingular. It gave, it feems, no small Offence to his critical Ear, that the Word Impedimentum is twice used in one Sentence of that Charter, Non obstante impedimento consanguinitatis & affinitatis contractui matrimoniali predicto impedimentum prastante. To make these Words found more disagreeably, he aukwardly, and almost nonsensically, translates them, The Impediment of Consanguinity and Affinity notwithstanding puting an Impediment to the Marriage. But had he granslated the Words here, as he does at the End of his Treatise, Notwithstanding the Impediment of Consanguinity and Affinity, putting [or, wwich did put an impediment to the foresaid matrimonial Contract, the Uncouthness and Harshness he finds in the Repetition of the Word impedimentum, would have very much disappeared. Impediment is a solemn Word in the Proclamation of Banns for Marriage, which then was much more firictly observed, among Persons of all Ranks, than now. But our Author will here allow me to observe, that the Repetition of the Word has more in it than he, or perhaps others, are aware of, namely, that this Confanguinity was not in the second, far less the first Degree, but more remote, probably in the

the third or fourth, which at that Time equally put a Bar to Marriages, as it did in the first or fecond. The Latin Tongue has nothing that anfwers to the English Articles [a] or [an] and [the]; and the Distinction between them can only be known from the Circumstances of the Speaker. or other Words before or after. Thus, when I fay, Vidi Regem, it cannot by these bare Words be known, whether I mean, that I faw a King, or the King; that can only be known by the Connection the Words have with other Parts of the Difcourse, or the Circumstances I am then in. here I take the Words of the Charter, not to fignify Confanguinity in general, but THE CONSAN-GUINITY, i. e. that particular Consanguinity. (which was then well known to the Parties concerned) which put an Impediment to their Marriage-Contract. Every Degree of Confanguinity did not, even at that Time, put a Bar to a Marriage. If it went beyond the fourth, all was thought fo far well, and no Dispensation was necessary. that was not Robert and Elizabeth More's Case : They were 'within the prohibited Degrees, and whether that was the fecond, third, or fourth, we are not told. All therefore that was defigned by the Charter, was to fignify some such particular Confanguinity, well known to them, as, without a Difpensation, would render the Marriage unlawful.

Our Author having, as he thinks, beat the Earl of Cromarty out of the Field, and shewed (in his Conceit) the Insufficiency of all his Charters, comes p. 137. to make a fresh Attack upon Mr. Sage. He had thrust sore at him before, p. 101, 104, 108, 109, 110. But I hope, by what I

Q 9 2

have

have said, it will appear, that the Darts thrown at him by our Author, in these Places, were all tela imbellia & sine ictu, and that he is as safe and sound as ever. Whether he will come off as well in this new Assault, the Sequel will determine.

MR. Sage, as not having Opportunity to confult the publick Registers themselves, thought it sufficient for him, as he fays, to lay together, and reduce to one View, what others have produced with respect to that Matter: Which he has done very accurately and methodically, in his Introduction to Hawthornden's Works. But our Author is not pleased, that he did not inspect and examine these Documents himself, but takes them all upon Trust and implicite Faith. I wish our Author has not been much more guilty of that Fault, who takes many Things related by others for Truths, that will not easily be allowed as such. But I will add further, that there is a great Difference between some Relations of Facts and others. There are but too many that are the fictitious Inventions of their first Relaters; others that turn upon meer Tattle and Hearfay; and others again, which, tho' grounded upon some Truths, yet are so miserably disguised, furbished up, and varnished over by the gross Partiality of those that relate them, that the Readers or Hearers are more apt to be imposed upon, than instructed by them. Of all these I could give many Inflances; and in general, I hope it may justly be faid of them, that no sincere Lover of Truth, as every wife and good Man ought to be, should be over-forward in giving his Assent to them; and that, if they be of the uncharitable Kind,

(as too many of them are) he ought to suspend or withhold his Belief of them altogether. But there is another Kind of Relations or Matters of Fact, which carries its own Evidence along with it; fuch as, when Persons of unquestionable Probity and Veracity declare, that they have seen with their own Eyes fuch and fuch Documents or Proofs of what they fay, tell where they faw them, where most of them yet are, and that every curious Person may likewise have Access to see them if he pleases. These are the Facts that Mr. Sage has taken upon Trust and implicite Faith; and he that will not do fo, is not fit for human Society. Without this, all Transactions among Men must be given up, and absolute Scepticism take Place in the World

Our Author here takes Occasion to cast it in Mr. Sage's Teeth, that he has, upon the Faith of others, related two Things, one of Mr. George Buchanan, and another of Mr. Alexander Henderfon, both Men of great Figure and Note. How far what Mr. Sage reports of them are true, or how great Faith he gave to them, or they deserved, is not now my Business to enquire. All I shall say of them is, that, in my Opinion, they are on the charitable Side, as fignifying, that these Men, eminent as they were, did in their laft Hours testify their Repentance for the great Injuries they had done, the one to Queen Mary, the other to King Charles I. and if they did not, as our Author would have it (for which I pray God to forgive him) they have now a heavier Account to make: And whether they did or not, I am very fure they ought to have repented.

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In p. 138, Mr. Logan gives me a Touch for faying in a Marginal Note, I had put to Mr. Sage's Introduction, p. 36. " That he, not having Lei-" fure or Opportunity to fee the publick Records, " was necessarily obliged to found all his Arguments " upon our Histories, and the Charters mention-" ed by the Earl of Cromarty, Mr. Rymer, &c." But, fays our Author, "Mr. Ruddiman needs very " much to explain himself, when he says that Mr. " Sage has founded his Arguments UPONOUR " HISTORIES." And a little after, be adds, " Mr. Ruddiman then is put to it to condescend on " these Historians, upon whose Histories Mr. Sage " has founded his Arguments." As I am thus called upon to answer our Author's Charge, I shall do it the best Way I can; and if I shall not have the good Luck to fatisfy him, yet, I hope, what I have to fay will fatisfy others. And here, tho' fome might (yet I will not) tell him, that Mr. Sage cites most of our Historians: For he will reply, that that is not to found Arguments upon them, but to confute them. Be it so: But does not Mr. Sage cite 70. Major, and is at a great deal of Pains, tho' I am not of his Mind, to prove from him that Eupheme Ross was not Robert's first but second Wife? Introd. p. 29-32. Does he not also cite a Passage of H. Boece, as inconsistent with what that Author afterwards relates? Does he not in like Manner cite Messrs Crawford and Simson's Histories of the Family of Stewart, in his Page 41? Both which were of the fame Sentiments with himself, tho' the last did not bring his Work so far down as to dip in that Controversy. Does he not also cite the Extracta de Chronicis Scotia, and from that

that Book prove the Age of Duke Robert the Go vernor, and from it collect that Robert II.'s Marriage with Elizabeth More was very probably in the Year 1335, or 1336? And laftly does he not frequently cire, and make honourable Mention of Sir James Dalrymple's historical Collections, and from them confirm the Truth of what he advances? After all this, can my Reader think, that our Author had Reason to quarrel me for such a simple Expression, That Mr. Sage was obliged to found all his Arguments and Inferences upon our Histories, and the Charters of the Earl of Cromarty, Mr. Rymer, &c. and to give me fuch a publick and peremptory Challenge for so doing? He concludes with faying, " That my Keenness " for the Cause, had made me to forget what I " had written in my Annotations on Buchanan's " History." I do not remember that in all these Annotations, I mention Mr. Sage oftner than twice, viz. p. 432. Col. 1. and 2. But do I fay in either of these, that Mr. Sage did not found some of his Arguments, and Inferences upon our Histories? Wherein then lyes my Forgetfulness? My Memory was once, I thank God, tolerably good, tho' now it is become much the worse of the wearing; but, for ought I can see, our Author's is not like to improve upon his Hands.

But to return to Mr. Sage's Arguments and Inferences, which are founded upon the Charters above mentioned, our Author, p. 139. destroys them all with one short Enthymeme, (my Reader will pardon me, that for Brevity's Sake I use logical Terms,) viz. I have shewed, says he, that they do not clear Robert III. from the Imputation

to (a) Seer. Hift. lib. p. 151.

Inferences that are founded on them, do not clear him. No Confequence more just, if the Antecedent were true. But he must have Recourse to other Topicks, than he has yet made Use of, before that can be made out. And till then, I will reckon all Mr. Suge's Arguments and Inferences to be well founded.

Our Author next, that each Piece of his may do double, and sometimes triple Execution, goes to the Charters and other Documents brought by Mr. Sage, from Mr. Rymer the English Historiographer, as judging, if he could cut off

the one, the other must fall with him.

And first ibid. our Author, as a prudent Warrior, begins his Attacks upon such Places in Mr. Rymer's Letter, as he thought least defensible; and in order to that, because Mr. Rymer's Treatise is address by Way of Letter to Dr. Nicholson, Bishop of Carlisle, he steps a little aside, to give that Bishop a By Blow. On other Occasions he highly commends that Bishop, (but it is only when he speaks as he would have him,) and says p. 22. Ithat he was more conversant in our Histories, than all these viri gravissimi that I have mentioned. (m) But here he is very angry with him, for blaming our Historians, and particularly Buchanan, for the vite Aspersions they have thrown upon our Robert III. (n); and that afterwards he, speaking of the Parisian Charter, and other Instruments, should say in a most rude Manner, that they afford as manifest a Consutation of George Buchanan's IMPU-

<sup>(</sup>m) See above p. 58.

(n) Scot. Hift, lib. p. 151.

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DENT SUGGESTION, as can be wished for. These indeed are rough Words, and harsher than any Thing I ever said of Buchanan: But they are said by a Protestant Bishop, whom, tho he seems to pay more Regard to a Charter attested by Papists, than to all our Historians together, whether Papists or Protestants, yet our Author ought to forgive, for the good Service he thinks he has done

to his Cause elsewhere.

2. Next, p. 140. he finds Fault with Mr. Rymer himself, in that mentioning those Historians, (b) who have propagated the notorious Fallbood and Scandal of Robert III.'s Bastardy, which bas fo long obtained, he names Jo. Major, Boethius, Lefly, Buchanan, Holinshed, and the rest; but omits Fordon's Continuator. " For, (fays our Au-" thor) it would feem that Mr. Rymer knew no-" thing of what is afferted by Mr. Ruddiman, con-" cerning one Ruffel, the Continuator of Fordon's "History, as the Contriver of the alledged Falf-" hood, fince he mentions Major as the first Pu-" blisher of it." Mr. Rymer does not particularize who was the first, or who the last Publisher of that Falshood, but thought it sufficient to name those Historians that were in Print, of whom Major is certainly the first, that speaks of that Matter. As to what is afferted by Mr. Ruddiman, concerning one Russel, Fordon's Continuator, Mr. Rymer could know nothing of it, for his Letter was published anno 1702, and that Assertion of Mr. Ruddiman, with his other Notes on Buchanan, did not come abroad till anno 1715. Mr. Rymer might in-

at a bni7:(a)

or of Mad (p)

deed have seen, that the Earl of Cromarty (tho' in the Beginning he names only of our Scots Historians these sour, Major, Boethius, Lesly and Buchanan, as Mr. Rymer has done) yet towards the End (p) mentions the Manuscript of the Continuator of Fordon, whom he calls an obscure Man, without naming him, whom Major may have followed.

3. He again, p. 141. brings upon the Carpet the Dispute betwixt the Earl of Cromarty, Sir James Dalrymple and Mr. Sage, whether Major agrees with our other Historians, as to Robert III.'s Bastardy or not: And then takes notice of a severe Censure (as he calls it) which Mr. Sage makes upon Mr. Rymer, for a Mistake he had fallen into with respect to Walter, Elizabeth More's second Son. But what have these Things to do with our Controversy?

4. He, ibid. calls Mr. Rymer's Impartiality into question, because, says he, be treats our Historians with Ridicule, and plays his Wit upon them. Mr. Rymer says indeed (q), that it looks very like a Fable, what is said by some of our Historians,

That in the Space of Time, from the Death of David to the Coronation of Robert, Giffard, the Husband of Elizabeth Mure, must die, to

leave a Vacancy for a new Husband; and

" Queen Euphemia must die, to make way that the King may at last, in good time, be wedded

our Author, for once, is in the right in the Animadversion he makes upon Mr. Rymer, for saying,

That

<sup>(</sup>p) Vind. p. 74. (q) Let. p. 10.

That according to some of our Authors, Giffard and Queen Eupheme died in the Time that interveen'd between King David's Death and the Coronation of Robert. Mr. Rymer is here in the wrong, and should have faid, between the first and third Year of King Robert's Reign, Buchanan's Relation of the Matter (for he is the only Writer I know of that speaks of this Giffard) will bring the Story within a short Compass of Time. His Words are, Sub idem fere tempus Euphemia Regina & Giffardo Elizabetha marito defunctis: Which the two English Translations (r) we have of Buchanan render; It happen'd that Euphemia the Queen and Giffard, Elizabeth's Husband, died about one and the fame Time. From which, I think, we may reafonably infer, that these two Deaths, and the King's Marriage following upon them, happen'd, according to Buchanan, in the Compass of one Year, and perhaps less. I will not say but that these Things were possible; but as such Occurrences happen very rarely, Mr. Rymer had some Reason to affirm, that the Story had more the Resemblance of a dramatick Invention, than of a true Matter of Fact. But be that as it will, we are otherwise certain that the whole is a mere Fable; and that, in direct Opposition to it, Elizabeth More was dead herfelf many Years before, and Queen Euphemia alive many Years after. R r 2 se et beterfino Our

<sup>(</sup>r) I call them two, tho' really they are but one. The first was published anno 1690, in fol. And it was great Impudence in one Mr. Bond, in his Edition anno 1722, in 8vo, to give out that he had revised and corrected the former; in which, tho' it abounds with a great many Errors, he has not made the least Alteration.

Our Author however should have spar'd this Piece of Inadvertency in Mr. Rymer, when he himself is guilty of much grosser Errors in the Account he gives of that Matter: For he within the same Space of Time mentioned by Mr. Rymer, makes King David to have died, the Crown to be set on Robert's Head, himself married to Elizabeth Mair, and his Son John's Bastardy thereby taken off, and him to be declared by Act of Parliament his Father's true and lawful Heir and Successor, and all this in the Space of about one Month, contrary not only to all Probability, but the Relation of all his Historians.

. AFTER this our Author flies out for feveral Pages rogether into excentrical Motions, and idle Repetitions of what for the most part he had faid before: Such as, I. " That the pretended Fable "was not kept as a Secret for many Years, but it " past with Fordon's History very soon, through "feveral Monasteries, after the writing of it, and "was never challenged by any." 2. "That " the Publisher of it at first, and these who did " transcriber it from him, cannot be supposed to " have had any Turn to ferve, or to bring Gain "to themselves thereby!" in 2: 35 That Mr. Rymer published a pretended Form of Homage, " faid to have been performed by our King Mal-" colm for Scotland, which Mr. Redpath hath demonstrated to be a gross and impudent Forge-" ry." 4. " That the Earl of Cromarty fays, "that what Sir Lewis Stewart wrote in that Mat-"ter was ill founded." 5. " That the Vindica-" tors of Elizabeth More are at Variance as to " fome Things among themselves," All these I .noughave

have considered already, and shewed that they are nothing to the Purpose (s). I shall only add here, that Mr. Rymer denies that he published that forged Charter our Author speaks of, for which see his own Words in the Margin (t). Nor is it true that the Earl of Gromarty says, that Sir Lewis Stewart was ill founded; he only says (u), and that was too much, "That Sir Lewis's "Hearsay, of two Papers that are not extant, and "not to be found, could not have stood against "the stormy Calumnies of so many Writers and "Historians," &c. But of this see what we have said above, p. 185.

Mr. Rymer lessens the Fabulousness of the Narration given by our Historians, by his saying, That in those Days the Word BASTARD was not such a Bugbear as now: Of which he gives some Instances. And in this our Author agrees with him, and adds, that Gillus and Duncan, Scotish Kings, were Bastards. This our Author had told us before, p. 107. upon which I have observed, p. 247. that the first of these, according to himself, is a Non-entity, and the second an Usurper. But, adds our Author, "In England, Will" liam the Conqueror was a Bastard, and conse-

(s) See above p. 164, 172, 185, 187, 188.

chords to baye exclu-

<sup>(\*)</sup> P. 18. "The Fact, fays he, is, I never did publish it, "nor ever saw it in Print, save in a Book by Mr. Redpath. "True it is, I found such a thing in the Archives, and had it engraven; but had no Design to publish it, unless it should be in Company with that famous League betwixt Charles magne and King Achaius, the Seals to them both being extended to Vind. p. 14.

guently, according to Mr. Rymer's Reasoning, " all crown'd Heads that descended from him, " must ly under the Infamy as much as those who descended from Robert III. But, continues be, " not to go fo far back, Henry VII. King of Eng. " land was a Bastard, whose Daughter was married " to Fames IV. King of Scotland; fo that a Stain " must ly upon all the Kings and Queens of Scot-" land and England, that descended from him, as well as on those that came of Robert III." I answer, that neither of these Bastardies come up to what our Historians say of Robert III. Of the former of these I have spoke above, p. 151. As to Henry VII. it is not true what our Author relates, that he himself was a Bastard. He was indeed descended of a Bastard, for so was his Great Grandfather John, the eldest Son of John of Gaunt, (who was the fourth Son of King Edward III.) begotten by him with Katharine Swinford, as were also other three Children, Henry the second, Thomas the third, and Joan a Daughter, all born before their Father and Mother were married, and afterwards legitimated by Act of Parliament, in Form of a Charter, in the 20th of Richard II. A. D. 1396 (v). They were by this Act entitled to all Benefits and Privileges belonging to lawful Children, the Succession to the Crown only excepted. This was enough to have excluded him from the Throne: But the monstrous Wicked-

<sup>(</sup>v) Henry VII. then was Great Grandchild, as I said, of John, the eldest of these Children, being Son of Margares Beausers Wife of Edmund Tuder Earl of Richmond, which Margares was Daughter of John Beausers Duke of Somerson, Son of this John Earl of Somerses, Son of John of Gauns.

Wickedness of his Predecessor Richard III. gave him easy Access to it; and he soon got a Parliament to his Mind, who (as our Author takes care to observe) declared his Title just (w). But the Right was notwithstanding all the while in the Family of York, as another Parliament some Years before, in a most folemn Manner, had declared; which obliged this Henry to marry Elizabeth Plantagenet, Daughter of Edward IV. the true and only furviving Representative of that Family. And it is from her that all the succeeding Kings. and Queens of England derive their Title to the Crown, and not from her Husband Henry VII. As for our James IV. tho' his Wife Margaret, Daughter of that Henry VII. was descended on the paternal Side of her Father's Great Grandfather, who was a Bastard; yet that did not, hor does affect the Kings of Scotland, that are forung of her, fince their Right to that Kingdom did no ver belong to her or her Ancestors.

As to what our Author adds p. 145. and remits his Reader to an Annotation of mine for it. "That Duncan II. affirmed that it was eviment, that he was the hereditary King of Scots?" If what he said was true, there was no Stain in his Blood, and being Malcolm III. his Father's eldest Son, his Title was certainly good: But, if otherwise, he lied, and there is an End of the Matter. Such a Lie was contrived and propagated by

<sup>(</sup>w) And in a certain Sense so it was: For, as we are assured by the noble Writer of that King's Life, before he invaded King Richard, he had passed his Word, that he would make the Princess Elizabeth, the true Heiress of the Crown, his Wife's Bacon, Hist. Henry VII. p. 2.

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by the Adherents of the late Duke of Mannauth: And if a Crown is to be obtained. People will be found that will not stand to make Lies for it,

I cannot to easily grant what our Author after advances. viz. '5 That the best and most learned Manyers sare of Dpinion, that the Stain of Blood in the Cales of Baftardy and Forfeiture, to ceales, when one succeeds to a Crown." I wish our Author had named fome of these Lawyers, for I am acquainted with none of them. Did ever Lawyer upon Earth fay, that the Succession to Crown alters or can alter the anterior Nature of Things. If a King before he came to the Throne, was deaf or blind, will his afcending it make him hear or fee? Or, if he was lame, as this same Robert III. was, for some Time before his Accession, will his taking the Sceptre in his Hand, restore him to the perfect Use of his Legisland Feet? And particularly, if a Bastard should happen to get Possession of a Crown, would that take off the Stain of Bastardy, and give him a Right to it in an hereditary Kingdom, to which none but Children of a lawful Marriage can have a just Title (x) But our Author has here, either grossly rishim he faid was true, there was no Stain in

<sup>(</sup>x) I know there are some, and these Persons of no small Note in the Opinion of many among us, as Drs. Burner, sherlock, Higden, &c. who maintain, that bare Possession (however come by) gives a just Right to a Kingdom, and that the Allegiance of the People is as much due to the Possession, as to the most lawful Sovereign. This strange Doctrine has been so effectually consuted by Persons of eminent Learning, as well as Piety, that there is no need of my entring upon the Dispute. All I shall say is, that if that Doctrine is true, it must follow that all the Distinctions between Right and Wrong are unterly lest; that Robbers and Pirates have a just Title to what they

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miltaken, or wilfully milrepresented the Matter There are indeed very eminent Lawyers, who maintain that the RIGHT of Succession purges all Defects, and removes all Impediments which can prejudge him that is to succeed. These are the Words of Sir George Mackenzie, (from whom our Author has probably borrowed something of what he here advances:) And both he, and Sir Thomas Craig, whose Words he also cites to the same Purpole, give solid Reasons for what they But what has that to do with the Stain of Blood, or Baftardy, our Author speaks of, which in their Opinion, as well as in that of all Lawyers I know of excludes all TITLE or RIGHT of Succession in Heritages of all Kinds? What our Author Subjoins concerning Queen Elizabeth, is likewise answered in what is said by Sir George Mackenzie: What he afterwards quotes from that famous Republican Algernon Sidney, in his Treatise on Government, p. 301, "That in Spain, du-" fucceeded, whether legitimate or illegitimate,", is as little to his Purpole: For it proves no more, but that that People were so barbarous, that they made no Diffinction among their Children, whether they were lawfully or unlawfully begotten.

can catch; that there neither have been, nor can be any Usurpations; that all Kings de facto are Kings de jure; that Q. Athalish and K. Cromwell had as good a Right to the Thrones they
invaded, as they had who were unlawfully disposses them.
And in fine, that Success is the only Standard of Justice and
Truth, and that (according to Mr. Pope's Essay on Man) whatever happens in the World is right.

(4) See Sir George Mackenzie's Differration of the lawful

Successor, p. 168.

It would likewise seem that these Goths allowed of Polygamy, and that their Kings might take as many Wives or Concubines as they pleased: For that would almost equally legitimate all the Children. But would our Author have the People of Scotland to follow their Example? Yes, certainly; for, repeating what he had said before, he tells us, That Robert, before he was King, made his Son John, tho' a Bastard, Heir to his personal Estate; and, after he came to the Throne, got a Parliament so compliant to his Will, as to legitimate this Bastard of his, and to declare him likewise his Successor in the Kingdom. But how extravagant this Conceit is, we have more than once shew'd above.

HE brings in again, p. 146. (for he delights in Repetitions) the Affair of the Duke of Monmouth, and the Exclusion Bill, and tells us, " That this " great Noise about Robert III.'s Bastardy, was not made till that Bill was in Agitation: And " that it was about that Time that Sir George " Mackenzie and the Earl of Cromarty wrote a-" gainst our Historians." But in this our Author is more Ways than one mistaken. Sir George Mackenzie was the first indeed that appeared in Print against our Historians: But his Book did not come forth till the Year 1684, when the Exclufion Bill was out of Doors, and innumerable Addresses had been presented to the King from all Quarters, testifying the People's Abhorrence of that Bill, and giving it all the bad Names they could think of. The Earl of Cromarty's Treatife was not published till the Year 1695, and he was so far from designing it a Piece of State Artifice, as our Mark and to accommand the lowers Author

Author represents it to have been, both in Sir George and the Earl, that he dedicates it to King William, near seven Years after James VII. was effectually excluded from the Throne. But neither Sir George nor the Earl were the first Discoverers of that Falshood in our Historians: For, as I have shewed above, Sir Lewis Stewart was the first that found it out, and made it known to King Charles I, 40 Years before Sir George Mackenzie, and 50 before the Earl of Cromarty wrote any thing in the Matter.

Our Author, like the Pharifees of old, who in their Prayers used vain Repetitions, and thought they would be heard for their much speaking, so he, thinking, it seems, that he will be believed for his much writing, entertains his Reader from this, p. 147. to the End of his Work, with little else than idle Repetitions of what he had said before. For,

made by the Earl of Cromarty, Mr. Rymer, Sir James Dalrymple, and Mr. Sage, concerning what might be the Reasons that led our Historians into that great Mistake about Robert III. and would thence infer, that because they differ in their Conjectures, how a thing, that we are sure of, should come to pass, therefore the thing itself did not come to pass, But how absurd such a way of Reasoning as this, is, I have shewed above, p. 177.

Reasoning as this, is, I have shewed above, p. 177.

2. In like manner, p. 148. he tells us that Mr. Rymer, as well as the rest, are quite mistaken as to the Meaning of the Act of Parliament, recognizing (z) John (alias Robert's) Right to the Suc-

<sup>(</sup>z) Our Author calls it here an ACT OF RECOGNITION; but

Succession, and that he in particular has committed a manifest Violence upon that Act. But wherein lies this manifest Violence? Why? in this, that Mr. Rymer mentioning this Act, Tays (a) that by it, it was declared, That Robert's eldest San, John Earl of Carrick, and Steward of Scotland, WAS and ought to be his true and tawful Heir and Successor. And does not this Att plainly bear to? Does it not fay, towards the Beginning of it, that the King's Delign in it was, Coram clero or populo successorem & verum beredem suum declarare? And what does that signify, but that John, whom he so declared, was his true Heir apparent, and ought to be his Successor in the Kingdom? Our Anthor here again gives us both in Latin and English a Part of that Act, but takes care, as before, to leave out the Claule, LICET DE TPSO CLARE CONSTITIT ATOUE CONSTET, as being sensible that his Gloss, the most absurd that ever was put upon a Text, could not possibly consist with these Words. Yes; but the Act has HERES ERIT, He shall be Heir, and pot HERES ERAT, was Heir, as Mr. Rymer has worded it. Mr. Rymer had no Delign in the Matter; what he fays is certainly true, for the Meaning of shall be Heir, and is or was Heir, is here the same. This our Author would make his Reader believe to be inconsistent; but (as I have shewed above, p. 280.) there is no Inconsistency in the Matter. Mr. Rymer took the Word Heir in the common Acceptation, for Heir appaizing (z) Fobn (alias Roverr's) Right to the

but how widely that differs from an Act of Legitimation, (as be would have it elsewhere) I have shew'd above.

(a) Let. p. 10.

was. But in the Act, where it is said Heres erit, is meant, that after his Father's Death he was to become his real Heir, i. e. Successor. Nay, in this very Act, the Word Heres is taken, as I have noted in p. 284, once and again, in its most common and ordinary Signification, for Heir apparents

AN p. 149, and the two following, our Author makes a mighty Pother about another Act of Rohert II. that past in the third Year of his Reign. This is the second of these two Acts mentioned by Sir Lewis Stewart, in the Paper we have so often looken of. Sir George Mackenzie has feen it among the Records of the late famous Lord Regifter Skene, as he tells us himself in the London Edition of the Right of Succession defended, p. 194. He there gives us the Substance of it in English, and promises to insert it Word for Word in the End of that Treatise of his in Latin. True it is, that Sir George afterward changed his Mind; for, instead of the Latin Copy of that Act, he gives us at the End this Postscript: " In regard there is, p. 194, 195, mention made of an Act of Parliament determining the Succession of Robert II.'s "Children, and referred to here, upon further "Consideration the Author has thought fit to de-11- fer the Printing of it till another Time, the Sub-" stance of it being inserted in the said Pages." This Piece of Conduct in Sir George, Mr. Atwood and our Author are much offended with: And this last lays, That it affords great Ground of Suspicion, that this Act contains something that Sir George is not willing should be known. And in this it happens, for once, that our Author is not much which

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much mistaken. For (I will dissemble nothing) the Reason why Sir George did not insert it in Latin as he had promised, was, that according to that Act, the Succession is to descend to five Sons of King Robert II. three by his first Wife, and two by the fecond, and to their Heirs male only; and that an Heir-female was not to fucceed, till the Heirsmale of these five Brethren should all fail. This Sir George knew to be contrary to the Rule of Succession in England; for which Reason he did not think fit to infert the whole Act in the second Edition of his Book printed at London, and has omitted to mention the Words Heirs Male in the Abstract he has given of it. However, Sir James Dalrymple has faithfully given us the Substance of it; in the Preface to his Historical Collections, p. 34. where he adds, "If Mr. Arwood delire more of this Act, he may have it verbatim (for which he bids us fee Skene and Stewart's lections.) " By which, fays be, it plainly appears there was no Bastardy in the Case of King Robert III. and that he needed not the Affiltance of an Act of the States to capacitate him to fucceed." Notwithstanding which, our Author is in great Doubt if ever there was such an Act. He owns indeed, that if such and such Things be in the Act, it militares greatly against our Hi-Rorians, if so be such an Act is extant: It ought therefore to have been published, that it might have been taken under the Review and Examination of good and competent Judges. But I apprehend, Jays be, from the Management of Sir George and Sir James, that it will not stand the Test." I pass over the old Grudge much which

which our Author and his Party have unjustly taken up against that great, and I believe truly good Man, Sir George Mackenzie, and shall not now resent it: But who can bear, that Sir James Dalrymple, a Gentleman of so great Honour as well as Learning, and as strict a Friend to the present Establishment, both in Church and State, as any; when he declares what he saw and perus'd, and tells the World where he saw it, should have his Veracity called in question? But our Author, it seems, is so keen for having our Robert III. a Bastard, that Tros Rutulusve fuat, be he Friend or Foe, that maintains the contrary, he must be cashier'd, and his Words pass for nothing (b).

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tor i memion i 10% (b) Our Author is mightily puzzled about that Postscript of Sia George Mackenzie, which Mr. Atwood speaks of; and he seems to be in a great Doubt about it, because he could not find it in his Copies. Nay, in his Pottscript, p. 182. he calls Mr. Atwood's Veracity in question : For, fays he, comparing the Copies together, in none of which is that Poliscript of Sir George to be found, I am apt to conclude there is no other Edition befides this [he means the Octavo one at Edinburgh] and the Folio one printed in the late Edition of all his Works in two Volumes. But I can assure him, that besides the two he speaks of, there was likewise printed an Edition of it at London, anno 1684, 8ve. in which is to be feen the Postfcript mentioned by Mr. Atwood. It is to be observed likewise, that to that London Edition Sir George has added some Things which were not in the first. These the Publishers of his Works in Folio (not knowing or thinking of that second Edition) have omitted. Our Author. is likewise mistaken in saying, that 16 Pages of the first Octave Edition are wanting in that which is in Folio. The whole Matter is this, Sir George, after finishing his two Treatises, thought fit to subjoin two Additions, one at p. 90 of the Jus Regium, the other at p. 53. (not 73. as it is wrong printed) of the. Right of Succession: All which are faithfully taken in in their proper Places, in the Folio Edition, p. 464 and 481. which our Author, had he been at Pains enough, might have discovered, And this, I hope, will serve to unrayel all his Difficulties.

Ir is very odd, that notwithstanding he had told it not many Pages before, viz. p. 140. yet our, Author will here again, p. 151, bring it in as a Fault in Mr. Rymer, that he (c) puts John Major in the Front of our Historians, who narrate the Bastardy of Robert III. and would have him to know (what it was impossible for him to know) from my Notes on Buchanan, that Fordon, or his Continuator Russel, was the Forger or Contriver of the whole Story; these Notes of mine not having seen the Light, till upwards of a Dozen of Years after Mr. Rymer's Letter was published. But where do I, in my Notes, give the Alternative our Author speaks of, that Fordon, or his Continuator, was the Forger of that Story? For I mention onby the Continuator as the Forger, and not Fordon; for Fordon himself tells the Thing far otherwife, viz. That Robert and his first Wife Elizabeth More were married canonically, Anno 1349; which is utterly inconsistent, as I have often said before, with his Continuator's Fable.

However, as if the bare Words of that Contimustor were of themselves a sufficient Proof of Mr.
Logan's Hypothesis, he gives us them at sull
length in English (as he translates them) in his
Text, and the greater part of them in their origimal Latin in his Margin. And then concludes,
"From this it appears the Charge of Mr. Rymer
against Buchanan, as being guilty of an impupent Suggestion, is most false and entirely
groundless." But in this also our Author is unjust to Mr. Rymer. He indeed calls it a notorious
Falshood

Falshood and Scandal, but equally attributes it to these five Authors he names, Major, Boethius, Lessy, Buchanan and Holinshed, upon whose Credit, he says, it has so long obtained; without singling out Buchanan from the other sour. Nay, so far is he from appropriating it to Buchanan, that in that whole Letter he mentions him only twice, viz. here in this his p. 2. and again in p. 5. where he blames him, for saying that David II. died anno regni prope tricesimo nono. But our Author has sorgot, that it is not Mr. Rymer, but his (at other times) savourite Bp. Nicolson, who calls that Fable an impudent Suggestion of Buchanan; for which he had severely rebuked that Bishop, p. 140.

AFTER these light Skirmishes our Author has had, partly with others, and more particularly with Mr. Rymer, but all without any manner of Success, he comes next, in p. 153, to besiege his strong Holds in Form, and hopes, now that he has brought up his beavy Artillery, he will be able to storm and beat him out of them all. But even here he thinks it prudent (as it certainly is in making Attacks) to spy out, if he can observe any Flaws in the Building, or any Parts of the Fort that seem weaker than others. Against these he sirst plants his Batteries, and if he can get them demolished, he doubts not but the rest will fall of course. And accordingly,

1. He thus animadverts upon Mr. Rymer's Words: That Gentleman had laid (d), and very truly, "That from the Time that David Bruce

<sup>(</sup>d) Let. p. 2.

was taken Prisoner in the Battle at Durham, on " the 17th of October 1346, to his Death in the Year 1370 (e), the two Nations were continual-" ly in Treaty: First, in order to the Releasement of King David; and afterwards, about adjusting the feveral Payments for his Ranfom. In " which course of Time, John, on whom the whole Controverly turns, was in a manner always in View: One while in England as an " Hostage; other whiles in Obligations; Commif-" sions, or other publick Transactions betwist the two Kingdoms, and always pass'd in both Na-" tions, in all publick Acts of State, for the Firstbegotten Son and Heir of Robert the Steward of " Scotland; and accordingly had his Rank before " the other Princes of the Blood. The Evidence, " Jays Mr. Logan, that Mr. Rymer brings for this, is the Truce of 14 Years, concluded at London " in June 1369. [This is not the only Evidence be brings for this: For he brings in a great many other Deeds, all confirming what he fays.] " But here (adds our Author) I must observe, that in the Treaty, as Mr. Rymer gives it in French, " it is dated June 3d 1369: But in his English " Copy it is said in the Title, that it is concluded at London in the Month of May (without naming the Day) under the Seals of divers Scotish Lords; but at the End it is faid, concluded and delivered under the Seals of the Prelates and Lords of Scotland aforefaid, at the City of London, in the Month of June, without naming the Day) and in the Year of Grace 1369. If these " Dif-

<sup>(</sup>e) According to our modern Scots Computation, Anno 1371.

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" Differences (continues be) are in the Originals, " from which Mr. Rymer took them, they shew " that they are not much to be relied on: But if " they are not, Mr. Rymer the Transcriber is " faulty." But there is no Fault in either. Mr. Logan should not call them Originals; for there is only one Original, in French; the other is but an English Translation of it, and that, as appears by the Language, a very modern one too. As to the Difference of the Date in the original French, the Title of it bearing the 3d of June, and itself in the End bearing simply (without naming the Day) the Month of June 1369, these may be eafily reconciled. For we have no more ado but to suppose, that after the Deed was written out by the publick Clerk or Notary, he might put its Title with the 3d of June on the Back of it, as being the Day on which he finished it, or produced it. But it being very probable, that (as there were two original Duplicates of it, one for Scotland, and another for England) so many Scots Prelates and Lords, no fewer than 18 of them, and 14 deputed on the Part of the King of England, could not have Time or Opportunity to be all present, and to put their Seals to it in one Day; this would make it reasonable, that the Month of June, in the general, should only be mentioned, without naming the precise Day of the Month, tho' some of them perhaps had begun to put their Seals to it on the 3d of that Month, as is let down in its Title. But what if I should be mistaken in this my Conjecture, will fuch a trifling Difference as this overthrow the Validity of fuch a folemn Instrument, with the Seals of so many great Lords of Tt2 Scot( 332 )

Scotland at it, and yet extant to this Day; especially as the same was afterwards ratified (as the same Mr. Rymer tellifies) by King David at Edin-

burgh the 20th of July following?

As to the English Copy, which, as I said, is but a modern Translation of it, it is more than probable, that the Translator, or whoever put the Title to it, being in haste, has mistaken the Franch Word Moys for May: Which is the more likely from this, that whereas it is in the French, an lemoys de Juyn, he has in May only, and no more (1)

2. Our Author's next Objection is, that Mr. Rymer acknowledges, that in that Deed, after the Bilhops, Thomas de Mar, George de la Marche, Williame de Douglas, are named; and after these also, John Benesthal de Gerrick. And this Order, he observes, is to be found in their Subscriptions. I from which our Author would infinuate, the he does not speak it out, that John was not so great a Man as he is given out to be, who, the the second Prince of the Blood, did suffer three Earls to be named before him. But what if I should say, that John, as being one of the Commissioners from the Nobility, did on this Occasion content himself with the Rank which his new Title gave him, and that being created Earl of Carrick probably this very Year, he gave the Precedence to those Earls that were

of the semarkable also, that the Franslator, who ever he was, has been so inadvertent, as to omit some things that are in the French Original.

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for a much older Standing (g). On other Occafions we find him taking that Rank which belong
ed to him as next Prince of the Blood Royal after
his Father, and being put before these very Earls
and all our other Nobility, the Prelates (who in
those Days gave Place to none but the King) only
excepted. But because he is otherwise ranked
here, will that make a most solemn Instruments
with his and so many other Seals affixed to it, and
to be seen at this Day, a mere Forgery.

3. Our Author falls next a. 154 on Mr. Sage.
(for he shall not escape a Blow, if he can be
brought into his Way,) and here he reaches him a
very severe one. "Mr. Sage, says he, observes
that Mr. Rymer has produced many bright and
demonstrative Proofs, of Elizabeth's having

many other bright Evidences for Elizabeth's having

(a) That the Earls of the Blood Royal did not always take Place of other Earls of an older Creation, we have an Infrance in the notorial Attestation of the famous Act of Parliamene 1371, where Thomas Earl of Mar and William Earl of Dos glas are placed before Robert Stewars Earl of Mentella tho the King's then fecond Son : Who yet in Charters of that King where he is a Witness, is generally named before them. The Reason of this Difference I take to be this; that in Deede of a publick Nature, as in Acts of Parliament, or Treaties of Peace, and the like, Persons took place according to the Dignity of their Office, or the Antiquity of their Creation as Noblemen: But in private Charters, Princes of the Blood were ranked before all others, except Bishops, who had always the first Place in those Days. Thus in that motorial Attestation above mentioned, next after the Bishops are named the High Chancellor and Chamberlain of Scotland, and after them the Earls in the Order of their Creation. But in Charters, the Chancellor is placed next after the Earls; and these again after the Princes of the Blood. I will not fay, that that Rule was constantly observed, for I find some few Inflances to the contrary,

( 334.1)

w been Robert's first Wife, particularly this Truce of fourteen Years. But this is a notorious Fall-" hood; for in the two Copies there is not the " least Mention made of her." This is a hard Charge against that worthy Man, but when we exthat here, as before, he is egregiously milreprefented. That Author had told us towards the Beginning of his Introduction, that he was not to bring new Evidences for the Legitimacy of Robert III. but to range and methodile those brought by others. Accordingly after having enumerated those brought by the Earl of Cromarty, from the Records in Scotland, from p. 29. to 36, pafs we news, lays he, to England; there the inquistive Hi-Coriographer Mr. Rymer, has found in the Archives, in the Tower of London, and at Westminster, many other bright Evidences for Elizabeth's having been Robert's first Wife. And then, after having by that Author's Help removed an Error our Hi-Storians have fallen into, as to the Time of David II.'s Death; in p.37, he repeats what he had faid beforer Go we on, lays he, with Mr. Rymer: He has produced, as we have faid, many bright and demon-Grative Proofs of Elizabeth's baving been Robert's first Wife; particularly thefe. And then he reckens up no fewer than ten of them, all which he accurately fets down and illustrates. What does our Author here? He fnatches at the two first of them. viz. the Truce of fourteen Years, and a fafe Conduct, in both which John is named Earl of Carrick; and because Elizabeth is not mentioned in either of these, he accuses Mr. Sage of a notorious Fallbood, as if he had laid the whole Stress of the

the Point upon John's being called Earl of Carwick. But had our Author dealt fairly in the Marter, he should have taken in the other eight Proofs,
which, in Conjunction with these two, demonstrate that John was Robert's lawful Son, on
(which is the same Thing) that Elizabeth the Mother was Robert's lawful Wife.

Bur, had Mr. Rymer, or Mr. Sage, brought no other Proof, for Elizabeth's having been Robert's first Wife, but that of John her Son's being Earl of Carrick, some Years before his Father was King, the Inference would have been very just. For was it ever known in Scotland, at or before that Time; that the Baffard of a Subject was advanced to the Dignity of an Earl? That was the highest Title of Honour our Kings did then bestow, and that of John's Father was no greater. What much confirms this, or rather puts it beyond all Doubt, is, that neither this Robert, when afterwards King, (tho' he had several bastard Children) nor any other of his Successors, down to King Charles II.'s time, did ever advance their natural Sons to any temporal Titles of Honour (h); unless perhaps that of Knighthood (which was not then hereditary) be reckoned among them. It remains then, that if John was Earl of Carrick (as these Deeds prove him to have been) fome Years before his Father

<sup>(</sup>h) 'Tis true, James, a natural Son of James IV. was created Earl of Murray, not by his Father, but by John Duke of Albany then Regent, anno 1315. Also another James, a natural Son of James V. was not by his Father, but by Queen Mary, anno 1563, advanced to the same Honour. But how unthankful he proved for that and the many other Favours heap'd on him by that Queen, the World is not now to learn.

Son, and of confequence his Mother Elizabeth

-nomodua Author rejects a Safe conduct granted to Jounnes Stewart Comes de Carryk, mentioned first by Mr. Rymer, and then by Mr. Sage, be cause it wants Date, and therefore, fays he, is not probative. But had he lookt into Mr. Rymer's Federa Anglia, Tom. vi. p. 614. he would have found it had a Date, viz. 7th June, and that it has marked on the Margin A. D. 1269, Ann. 42. Edw. III. Besides, it and nine more given at that Pime to other Persons, are faid to be granted, consideratione cariffini fratris nostri Scotia, who could be no other than David II. This shews that Mr. Logan's Question [ How can Mr. Sage know, whether that Safe-conduct was for a long or Abri Time before the Death of Euphemia ?] is vain. For, if it was granted Anno 1269, then Tohn was Earl of Carrick four Years at least be fore the Death of Queen Eupheme, even accordi ing to our Historians, who place it in the Year 1373 or 1374.0 (1) 11000

by Mr. Sage, viz. That John was Earl of Carrick before Queen Eupheme's Death, to confute Mr. Buchanan's Affertion, that Robert heaped Honours and Riches upon his Chil"dren after his Marriage with Elizabeth. But, fays be, Mr. Buchanan, as to conferring of Homours upon his Sons, speaks with great Caution. His Words are, ut a multis traditur, i. e. as it is reported by many." But I have shew'd above, p. 274, that Buchanan's Words do not re-

late

late to these Honours. Besides, wherein lies Mr. Buchanan's great Caution? Does either he or our Author suppose, that these Honours and Riches might perhaps have been bestowed upon Robert's Children before his Marriage with Elizabeth? If so, they were advanced to these Honours and Riches while they were all yet Bastards; for it was by that Marriage, that (according to them) these Children became legitimate.

Mr. Rymer, Jays our Author gives his " English Evidences very confusedly, observing " no Order of Time; and, he adds, that he will " endeavour to put them in the Order of Time. that we may discover if there is any thing of "Moment in them." Whoever reads Mr. Rymer's Letter attentively, will see that there is no Diforder or Confusion of Time in it, b (unless that triffing one, of which afterwards) if the Points he was to prove be considered. These are, v. That John was Earl of Carrick before his Father came to be King; which Honour it is not to be supposed would have been conferred upon him, had he been then a Baffard av That in all the Treaties betwixt Scotland and England, for the Releasement of David II. he is almost constantly defign'd his Father's First-begatten and Hein, long before his Father came to the Throne; which Title being given to none but a lawful Son, it must plainly follow that he was not legitimated by a Marriage of his Father and Mother that happened (according to our Historians) many Years after. The first of these Mr. Rymer makes evident, p. 4. and the greatest part of his Letter is taken up in proving the second, as being most material. But if Mr. Rymer

Rymer has made out what he has undertaken, it is of small Importance in what Order his Arguments are ranged. However, to please our Author, let as follow his Order. Mr. Rymer, fays he, ob-" ferves, p. 15. that there were feveral Treatics which did not take Effect, as one at Berwick upon Tweed, November 12th 1354; another at Newcastle upon Tyne, the 13th of July the " fame Year, (still (i) he keeps no Order;) in both which (fays he) the Son and Heir of the " Steward of Scotland (not telling his Name) is to be an Hostage for the Security of the fecond " Payment; which to me (fays our Author) ap-" pears to be pretty strange, when he owns, that in these Treaties he is not named among the twenty Hoftages; for these were all that were demanded: But what is still strange, Mr. Rymer, Let. p. 14. acquaints us, that on the 24th of June 1358, which is four Years after the faid Treaties, was the first Payment of the " 10000 Marks." From all which our Author would infer, that Mr. Rymer has fo embaras'd the Matter, that nothing he writes of it is to be relied on But had he read Mr. Rymer's Letter more attentively, and especially lookt into his Fædera Anglia, (where he would have found these Transactions recorded at large) he could not but have feen, that all that is advanced by that learned Gentleman, hangs very harmoniously and confiftently together. For, and have and all and

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<sup>(</sup>i) There is no Disorder in Mr. Rymer's Letter, but this one, that he mentions November before July: And is not that a mighty Matter!

1/1, In these two Treaties in the Year 1354, it is proposed on the Part of the King of England, but not agreed to by the People of Scotland, "That " 90000 Marks Sterling should be paid for King " David's Ranfom, in the Space of nine Years, " viz. 10000 Marks each Year, the first Payment " being to be made at the next enfuing Candlemas, " or within fifteen Days after." For the Security of these Payments were demanded twenty Hostages, all there enumerated, and most of them the Sons and Heirs of the chief Nobility and Gentry of Scotland. That the Son and Heir of the Steward of Scotland could not be named one of those twenty Hostages, is plain from what follows in the same Deed, viz. " That after Payment of the first " 10000 Marks, the Son and Heir of the Earl of " March should be set at Liberty, and the Son " and Heir of the Steward of Scotland should be-" come Hostage in his Place: And upon Pay-" ment of the second 10000 Marks, the Son and " Heir of the Steward of Scotland should be ex-" changed with Walter another Son of the faid " Steward, if he was on Life; and if not, with an-" other of his Sons, together with the Son and " Heir of David del Hay Constable of Scotland, " or some other as sufficient; and so on." And here it is remarkable, that tho' by this Deed it is provided, " That when any of those Hostages " were to be relieved, others of equal Quality " and Sufficiency should be substituted in their " Room:" Yet the Son and Heir of the Steward of Scotland, and the Son and Heir of the Earl of March, are particularly excepted. By which it is plainly fignified, that there were none other in Uu2

Scotland of equal Dignity to them; or if there were, they had either been Hostages before, or were not of such Age as rendred them capable of

being made Hoftages and militate exactly occap "

adly, As to our Author's fecond Difficulty, that this Son and Heir of the Steward of Scotland is not named, by which he would infinuate, that he was not his Son John by Elizabeth Muir, but perhaps David his eldest Son by Eupheme Ross: Besides that it can be demonstrated, that David was not capable of being then a Hostage (k), who should this Son and Heir of the Steward of Scotland be but John, who not long after this, and before his Father was King, is always to des fign'd? Nay, to put the Matter out of all Doubt, there is a Deed of Edward III. of England, under this Title, De conductu pro obsidibus Scotiz venturis in Angliam, anno 1351, i.e. three Years before these two Deeds in July and November 1354, wherein he is exprelly delign'd Jahannes filius & beres Senefcalli Scotie. I might add; (tho' there is not the least need of it) that in the final Treaty for the Redemption of King David, anno 1357, there are no less than six Instruments, all drawn up that Year, in which, or in a Roll annex'd to them, John with that Designation is named. In the first of these is contain'd the Indenture entoll slock or That when any of those Hot

were to be relieved, others of equal Quality

<sup>(</sup>k) Eupheme Ross, David's Mother, had been married to Sohn Randolph Earl of Murray, who was flain at the Battle of Durham 17th October 1346; Robert II. could not readily marry her till the following Year 1347, and supposing this his Son David to have been born the next Year 1348, he could not possibly be much above fix Years old anno 1354, in which the Son and Heir of the Steward of Scotland is named an Hostage.

tred into by the Commissioners of Scotland and England, concerning the Conditions of King Devid's Ranfom and Liberation, ad October. The second is a Deed under the Great Seal of Scotland. confirming that Indenture, 5th of faid October. The 2d, 4th and 5th are Confirmations of it, under the Seals of the Lords temporal, of the Merchants of the Royal Boroughs, and of the Prelates of the Kingdom of Scotland; the two former the 5th, and the last on the 6th of faid Month. And finally, all is ratified by King David himself in his Council or Parliament at Scoon the 6th of November following. These are all mentioned by Mr. Rymer, p. 6-8. and fully recorded in his Fieds ra, Tom. vi. p. 34, &c. upon which in faid Letter. p. 8. his Words are, " In all these Acts, fays be, than which none more publick or more folemn " can ever happen, John Stewart is own'd by the "King, and by all the States of Scotland, in the " Face of the two Kingdoms, and designated the " First-begotten and Heir apparent of Rabert the "Steward of Scotland, and is always placed in " the Front, and is given the Precedence before " all the other Princes of the Blood Royal." Can a Sun beam make these Things clearer than they are? But I must take notice of our Author's Adly, THIRD Difficulty, which is, That " it is ff strange that Mr. Rymer acquaints us that the first Payment of the 10000 Marks was not "made till the 24th of June 1358, which is four "Years after it should have been made by the "Treaties anno 1354." That Mr. Logan should think this strange, is the most unaccountable thing in the World, when Mr. Rymer has told him in that Dolo

that very Place he cites, viz. p. 15. that thefe Treaties anno 1354 DID NOT TAKE EFFECT, especially as he himself repeats these very Words. To me it appears extremely wonderful, that this Treaty, which after I cannot tell how many Messages, Communings and Proposals on both Sides, was at last concluded anno 1357, should ever have taken effect: That the People of Scotland, after the Nation had been harass'd, impoverish'd, and almost destroy'd by a War (with small Interruptions) of upwards of fixty Years Continuance, should agree to the Payment of such an exorbitant Sum of 100000 Marks Sterling, for the Redemption of their King: A Sum that in those Days would probably have gone farther than a Million Sterling would do now. And nothing can possibly account for it, but the inviolable Loyalty, Love and Affection they still retain'd for their captive Sovereign. Had they lived in our Time. and got into the Principles that prevail now adays, (when the Persons of Kings are contemn'd and fet at nought, and too many among us would be more ready to fell than ranfom them) they had an easy way of relieving themselves of that immense Burden. They had no more to do, than to fuffer their poor captive King to pass the Remainder of his Life (to which Grief and Melancholy would probably in a few Years put a Period) in close Durance and Imprisonment; and then the next Heir, who was under no fuch Restraint; would have mounted the Throne. And here I cannot but highly admire and commend the glorious and difinterested Conduct of the then Steward of Scatland, who, tho' next Heir of the Crown, used that

comply with such hard Terms, and no doubt bore the heaviest Load himself in the Performance of them. I am forry I cannot say the same of his Son Robert Duke of Albany, and his Grandson Duke Murdo, who, in order to get the Government into their own Hands, suffered their Sovereign James I, to be eighteen Years a Prisoner in England, and never thought of relieving him, till the Wickedness of Murdo's Sons and the Out-cries of the People forced him at last to set about the procuring that King's Deliverance. The Reader will pardon this Digression, which our Author's trisling Objections have given Rise to. But to proceed with his other Difficulties,

4thly, HE tells us in the same porge. " That " Mr. Rymer alledges [ so be words it, as if Mr. Rymer had not given clear Proofs of it ] " that on " the 3d of October 1357, all the Articles of the " great Treaty for the Deliverance of David " Bruce were signed, and twenty Hostages were " delivered for the Security of the feveral Pay-" ments of his Ransom, and that John Stewart, " Son and Heir of Monf. Robert Steward of Scot-" land, is the first of the twenty; but in this Do-" cument he is not stiled the Earl of Carrick, " tho' it is dated 3d October 1357. And then adds, " That Mr. Rymer acknowledgeth that be cannot determine the Time when John was first advan-" ced to the Dignity of an Earl." Can Mr. Logan be serious in proposing such Difficulties as these? John the Son of the Steward of Scotland was not created Earl of Carrick till about the Year 1368 or 1369; and would he have him stiled by that

that Title annour 357, i.e. 11 or 12 Years before? And is it of any Moment in this Dispute, that Mr. Rymer, a Stranger, should not know when John was advanced to that Dignity? Can our Author tell when most of the old Earls of Scotland were created? And because he cannot tell, does it therefore follow that there were no such Earls? What pitiful Shifts are these?

sthly. But there follows another not a whit better? Mr. Rymer, says he, adds, that we never find John otherwife defen'd than the First begotten Son But (fays our Author) he forgets himself, for when he bids us look back to the Year 1958, the Safe-conduct is, Pro Foanne primogenito Senefcalli Scotie veniendo in Angliam, without calling him either Robert's Heir or the Earl of Carrick? Is not this a great Matter that, in one Place, the King of England, giving an Order to his Officers concerning him, does not give John all his Titles? Was it not fufficient, that he calls him the Firft begotten of the Steward of Scotland? For that, I suppose with every body, except our Author, will be reckoned equivalent to calling him the Steward's Heir. He must have been a wonderful Bastard this, whom not only his own Father, but the Kings both of Scotland and England, fand who not?) call his Father's First-begotten, and generally add Heir to it; especially as his Fa-ther had then a lawful Wife, and probably one Son, and certainly one Daughter by her! The King of England could not then name him Earl of Carrick, (as our Author it feems would have him to have done;) for that he was not till about ten Years

Years thereafter. He might indeed have called him, if he had pleafed, Lord of Kyle; for that Title he had got fome Years before the Year 1358: But who ever thought it necessary, in a Safe-conduct, to give the Person in whose Favour it is granted, all his Titles; when any one of them, expecially the chief one, as here, is sufficient to

point him out! was any sale southers

6thly, HE again finds fault, p. 156. that in feveral Deeds of King David and the King of England, tho' John is stiled Primogenitus & heres Senescalli Scotie, he is not designed Earl of Carrick. As to which, befides the Answer I have just now given, our Author is otherwise wrong. King Duvid in the Obligation he speaks of, dated at London the 4th June 1270, does not mention John at all. As to the Names of the Hollages that follow in Mr. Rymer's Append. C. p. 41. they have no Connexion (as our Author thinks they have) with King David's Obligation, but were let down in a Roll fubjoin'd to the general Indenture for King David's Liberation, and, as I believe, repeated in the other Deeds relating to it anno 1257, i.e. abour eleven Years before John was Earl of Carrick. In other two Deeds of the King of England, recorded in Mr. Rymer's Appendix, p. 44. and 47. John is stil'd Primogenitus & beres Senescalli Scotia: but is not, nor could be named Earl of Carrick . For the first of these is written on the 8th of June, in the 32d, and the second on the 13th of June, in the 34th Year of that King's Reign, i. e. anno 1358 and 1360, both many Years, as I have shewed, before John was Earl of Carrick. But what would our Author make of all this? Yes, Xx

Yes, as he would have his Reader believe, a great deal; for, adds he, p. 157. "Thus then it ap-" pears there is no Uniformity in the English E-"vidences, in defigning this John; fometimes he is called the Son of the Steward of Scotland, " fometimes his Son and Heir, fometimes the Earl of Carrick and his Son and Heir: From " all which, continues he, can any thing be learned, but that he was Heir to the private Estate " of a Subject, being then the Son of a Subject? "And now is it an incredible thing, that a Subject " fhould declare his Bastard Son to be Heir to his " Estate? But then he was never stil'd Heir of the "Kingdom, nor apparent Heir of the Crown, till " his Father succeeded to David Bruce; and this " was done by Act of Parliament." This romantick Conceit I have fufficiently exposed above. But neither is there fuch a Disconformity among these English Evidences, as our Author imagines. John is no where in them called simply the Steward of Scotland's Son. Once in that above cited Safe-conduct anno 1358, he is named Primogenitus Senescalli Scotia; but in all the rest, in the Latin Writs, he is design'd Primogenitus & Heres Senescalli Scotia, and in those in French, Fehan Fitz & Heir au Seneschal d'Escoce : And after he got that Title, he is constantly called Earl of Carrick; and what Disagreement is there in all this?

Our Author having finished these his Remarks on Mr. Rymer's English Evidences, to which Mr. Sage and Mr. Ruddiman had referred, who can doubt but that his Conclusion will be suitable to his Premisses, viz. "That as yet he cannot be brought to think, that Mr. Rymer has given

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bright and demonstrative Proofs of Elizabeth's having been Robert's first Wife, as Mr. Sage as ferted, Introd. p. 37?" But who can give Light or Brightness to them that are resolved not to see, and will not open their Eyes, the a Sun-beam is darted in upon them?

UR Author's last Attack is referved to be made against my self: But before he sets about it, he first entertains his Reader for a long Way together, p. 157-162. with what he had faid before, and I have confidered above, concerning Female Succession, the Government of Women, Zelophehad's Daughters, and the like; all which have very little Connexion with the hereditary Right of the Kings of Scotland, and none at all with the Legitimacy of Robert III. The Laws of Succession are different in different Kingdoms, and are sometimes changed in the same Kingdom; and he or she is next in Blood, with respect to the Succession, whom the Law declares to be fo, and no otherwise. If Females are excluded altogether, as in France; or Males in the same Degree, whether first, second or third, are preferr'd before them; as was held to be the Rule in the Dispute betwixt Bruce and Baliol, and afterwards confirmed to be the Rule in the like Cases, by Acts of Parliament in Scotland; the Proximity of Blood is no farther to be regarded, than as it stands in Conformity with these Laws. In the Eye of the Law, he or she is next in Blood with respect to Succesfion, whom it has appointed next to fucceed: And whoever is included or excluded by the supreme Authority of a Nation, wherever that is lodged, fettling X x 2

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fettling the Succession, the strict and absolute hereditary Right is equally preserved, and the Succesfors, one after another, are as certainly pointed out, as, had it been possible for the Lawgivers to have foreseen them, their Names, and the Order of their Succession had been set down in these Laws. Our Author's elective Power of the People, which he fo strengously contends for, is thereby for ever as effectually laid ande, as the Supreme Authority of a King, People or Society can possibly do. For if a Law settling the Succesfion cannot bind the People, I do not see how any other Law can bind them: And if so, the People may give or withhold their Obedience, just as far and no farther as they think fit; and then every Man at last shall be his own King, and all will relapse into the old imaginary State of Nature. This is that glorious State of primitive Liberty and Independency, which our Author's Principle naturally leads to.

The next thing worth noticing in our Author, is a Question which he, p. 162. proposes about Succession by Proximity, which, he says, will puzzle Mr. Ruddiman to resolve to any Satisfaction. 'Tis needless here to repeat the Question; but if (as he confesses) that great Lawyer Sir Thomas Craig had some Difficulty in resolving it, 'tis no wonder it should puzzle one that has so little Knowledge of the Law as I have; who therefore shall not offer at resolving of it any farther, than to tell our Author, that Sir Thomas Craig, in the Place he cites, is treating of the Succession to private Estates, which may be divided; and not of

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the Succession to Kingdoms, which are generally reckoned indivisible.

Our Author comes now to attack me more directly, by resuming from p. 163 to 173, the Arguments Mr. Atwood and he had advanced, for Bewing that the much boafted of Parisian Charter anno 1364, contains apparent Marks of Forgery. This unlucky Parisian Charter has been a great Rumbling Block in our Author's Way, and therefore, tho' his Forces have been pretty much that tered, yet he will needs rally them once more, that, if possible, he may get it demolished: For if it stands, all is lost. But let us come to these his, or rather Mr. Arwood's, Arguments. Three of them, he says, he has confirmed, from p. 98-101. But he had gone through more, it feems, than one half of his Book, before be remembred that Mr. Ruddiman had undertaken to give his Animadver. sions upon them. And now, adds he, that I have feen and considered them, I must still be of Opinion with Mr. Atwood, that the faid Charter contains apparent Marks of Forgery. I did indeed (the' with Men of Judgment and Ingenuity there might feem to have been little need for it) not only animadyert upon, but unanswerably (as I then did and will always think) confute all the groundless Cavils and Objections of that Man of monstrous Confidence, against the Credit of that Charter: And yet (who would have imagin'd it?) our Author will needs take up Mr. Atwood's Quarrel, and maintain that most of his Objections against the Genuineness of that Charter are well founded. To three of these Objections, (Arguments our Author calls them) viz. the 1st, 3d and 5th, I have

have given such Answers above, p. 221, &c. that if they are not sufficient, I despair of being able to prove to our Author that 2 and 3 make 5, that a crooked Line is not a straight one, or that a Square is not a Circle. There remain only the 2d and 4th of Mr. Atwood's Arguments, which, though I had (as I thought) sufficiently baffled before, with all the rest, in the Preface to Mr. Anderson's Diplomata; yet, as I had no occasion to speak of them above, I am obliged to consider what our Author says now to reinforce them.

As to Mr. Atwood's fecond Argument then, our Author plays fast and loose with his Readers. He tells us, That he did not adopt it, as conscious (one would think) that it would not hold Water. viz. That, by that Deed, Robert Subjects himself and his Heirs to the Bishop of Glasgow, and his Official; and because of this, Robert fancied a Regal Power, to put himself and his Heirs under what Bishop be pleased, in whatever Diocess he or they lived, or Gould live. As to which he fays, "That he is of Mr. Ruddiman's Mind, that the Charter speaks of no o-" ther Bishop than the Bishop of Glasgow: Yet, " adds he, I think that Robert fancied a Regal Power, in subjecting his Heirs to the Bishop of "Glasgow and his Official, as to ecclesiastical " Censure. Several of them (be continues) had " their Estates in other Parts of the Kingdom, and did not reside in the Diocess of Glasgow; they were extra territorium, and so not under this Bi-" shop's Jurisdiction. Besides, (he goes on) it is a " little too romantick and monkish, in the appa-" rent Heir of a Crown, and his Posterity, to be " subjected in such a solemn Manner, to eccless " aftical have

aftical Censure for omitting to pay ten Marks vearly. Monks knew the Trade very well of forging Charters, and clapping in Clauses, as "they had a-mind." I have fet down our Author's whole Paragraph: But what he would be at with it, is not easy to understand. He gives up Atwood's Objection, as to that Part of the Charter, wherein Robert subjects himself and his Heirs to the Jurisdiction and Coercion of the Bishop of Glasgow; as if Robert did thereby assume something of a Regal Power, in subjecting himself and Heirs to what Bishop he pleased: This, I say, our Author gives up, as inconsistent with the Words of the Charter, which mentions no Bishop but that of Glasgow. And yet he will needs in Place of this. fubstitute another Objection against these Words of it, fully as groundless as that of Mr. Atwood For he thinks that Robert fancied a Regal Power, in subjecting his Heirs to the Bishop of Glasgow, and his Official, as to ecclefiaftical Censure. This Regal Power therefore, which our Author will have Robert to have here assumed, was not in subjecting himself (for that, it seems, our Author allows he might do,) but in subjecting his Heirs to that Bishop's Jurisdiction; as if none but Kings could subject their Heirs as well as themselves, to the Payment of a just Debt; and as if, when a Penalty, or ecclefiastical Censure, is incurred upon a Failure of Payment, the Father only is bound so long as he lives, but not the Son and Heir after his Death. I have faid before, that by what our Author writes of Charters, one would be apt to think that he had never feen any: But by what he writes now, it would feem, that he had not feen

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a common Bond or Obligation: For in them the ufual Form is, that the Heirs and Successors of the original Obligant, are bound to every Thing that is therein stipulated, as much as he himself is. Our Author is very much for freeing Children from fuch Obligations, as their Parents may have brought them under, with respect to Civil Government: But I never imagined till now, that he would have a Son inherit his Father's Effate, and not be liable to the Payment of his Debts, and the Penalties incurred upon Refufal. Yes, but fays he, feveral of his Heirs had their Estates in other Parts of the Kingdom, and did not refide in the Diocefs of Glafgow. As if one's changing the Place of his Refidence, could free him from paying a Debt he flood bound for. How glad would many one be. to have fuch an Evalion allowed them by out Laws? For then, if by any Means he could get himself transported from one Shire or Diocess to another, the Obligation he was under for paying his Debts should cease. But (will our Author say) It is not more reasonable that a Bishop should have Power to profecute a Person that lived without his Diocess, than it is for a Sheriff to summon one before him who lives in another County. I answer, That, tho' this is true with respect to the Turisdiction of Sheriffs, and also of Bishops in their temporal Courts, where they themselves have no Interest in the Matter: Yet in this Deed, wherein an express Clause is, that Robert, upon Failure of performing what he had bound himself and Heirs to, did subject both himself and them to the Coercion of the Bishop of Glasgow, I fee nothing hinders why that Bishop might not summon Robert

or his Heirs, the then living without his Jurisdiction, to appear before his spiritual Court, and there have that Centure pronounced against him or them, which he had subjected himself and his Heirs to. If otherwise, this Clause, which is to be seen in so many Dotations of that kind, would be elusory and vain. Thus much I can affure him, that nothing was more common at that time. than for those that made pious Donations or Mortifications to any Church or Abbay, to subject themselves and their Heirs to the Jurisdiction of some Bishop or other, in order to compel them by Church Cenfure to make good what they had thus doted or mortified. Kings indeed, as I observe in that Preface, did not subject themselves to be ex-communicated by their own Bilhops; for that would have been carrying the Authority of Subjects over their own Sovereigns too far (1): But all others, of what Quality soever they were, did frequently in such Grants submit themselves and their Heirs to that ecclesiaffical Coercion. Of this I gave there an Instance, in the famous Sir Thomas Randolph Earl of Murray, a Person of not much inferior Dignity to that of the Steward of Scotland, who having made fuch a Donation as this, subjected himself and his Heirs to the like Coercion by the Bishop of that See. And if our zodtuA omnoonly the state SX & Granafen, the other Chil-

dren not being bound in such Deeds ? See what our Ambor

<sup>(4)</sup> That was a Power the great Pontiffs of Rome referved to themselves, and was often in a most tyrannical Manner exercifed by them upon Emperors and Kings, to the great Re-proach of Christianity, as well as to the Disturbance of civil Society and selection to bib oil redeven by to see hilloy's Goesing as to that Matter as I have from't

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Author will put me to it, I can furnish him with great many others of the same kind (m).

Our Author thinks it romantick and monkish, that the apparent Heir of a Crown and his Posterity should be subjected to ecclesiastical Gensure, for omitting to pay 10 Marks yearly. I have shew'd above, p. 224 that 10 Marks Sterling in those Days, were of more Value for the Uses of Life, than probably 30 or perhaps 40 Pounds Sterling are now. But does the Greatness or Smalness of a Sum after the Obligation to Payment, or Penalties incurred upon Failure? If the Sum was so small, as our Author would have it, the Steward of Scotland and his Heirs would have been more inexcusable, had they failed in the Payment of it. But I have heard of Presbyterian Ministers that

<sup>(</sup>m) I might here also observe our Author's odd way of speaking, 1. In saying, that Robert fancied a Regal Power in subjecting his Heirs to the Bishop of Glasgow and his Offieial, as to ecclefiaftical Censure: As if none but Kings could Subject their Heirs to pecuniary Prestations, and to the Penalties they may incur upon Non-performance. 2. He adds, to ecclesiaftical Censure: Whereas no ecclesiaftical Censure is in that Deed intended, but only that Church Censure, to which the Granger had fubjected himself and his Heirs. 3. He mentions Heirs, as if they were many: But who knows not, that by the Word Heirs is meant only one Successor after another, and he commonly the eldeft son or Grandfon, the other Children not being bound in such Deeds? See what our Author fays, p. 12.] 4. He fays, these Heirs had their Estates, and refided without the Bishop of Glasgow's Jurisdiction. But what then ? Tho' Robert Earl of Fife and Alexander Lord of Badenoch might perhaps live elsewhere; yet John the eldest and only Heir did probably reside in that Diocels, most of his Lands lying within it. And whether he did or not, he was still liable to the Bishop's Coercion as to that Matter, as I have shew'd before.

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have excommunicated Persons for Things of much less Value. Besides, our Author is wrong in calling Robert the apparent Heir of the Crown, for he was then no more but presumptive Heir of it, as I have oftner than once hinted before. King David was at that time but 40 Years old, and lived upwards of 6 Years after; and had he in that Space (as it was not improbable he might) got Children of his own, Robert would have had no Title to the Crown at all. But our Author has forgot what he had faid just before, that however Robert's Heirs might be free, by residing out of the Bishop's Territory, yet he himself, wherever he resided, was by that Deed of his liable to the Bishop's Jurisdiction. He overlooks also, that to this Deed John the Son and Heir is not a Witness, but a Consenter; his Seal being appended to it as well as that of the Father, and consequently equally liable with him to all contain'd in it.

Our Author concludes this Article with telling us, That Monks knew very well the Trade of forging Charters, and clapping in Clauses as they had a-mind. But how can he lay this, when according to Mr. Atwood and him, these Monks (if it was not rather a Bishop or some Priest that drew up that Deed) were the greatest Bunglers in forging of Charters that ever were known in the World; they having (if we will believe them) discovered so many Flaws and Impersections, so many odd Phrases and Ways of speaking, utterly unknown in those Times, as would blast and destroy the Credit of it, or any other such Charter

that ever was written!

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THE other Argument that remains to be looke to, is the 4th brought by Mr. Atwood, and adopted by our Author, p. 166. against the Parisian Charter. I had faid of it in that Preface, that it plainby surpasses common Sense: And so it does in the No. tion I had of it, which was, that in that Charter there is no Mention made of the Payment of the to Marks granted towards the Maintenance of the Chaplain. But, says our Author, I bave mistaken. Mr. Atwood's Meaning; which I own is a very possible Case, for it is not easy to bring Sense out of Nonsense. Atwood's Argument, says he, is in these Words, p. 516, That the supposed Grant of the 10 Marks is not supported by any Payment, or so much as colourable Demand. I indeed took it as if Mr. Atwood meant, that the Payment of these to Marks was to be supported by some Words in the Charter itself. No, says our Author, Mr. Atwood's Words had no Relation to the Charter, but to what should have followed upon it long after. "For (adds he) now for these 300 Years, neither the Payment, nor the asking of Payment, has been instructed by any promper year. It is not so much as alledged that the Register bears any such thing; so that ex post - facto nothing has appeared for vindicating "this Donation." Thus our Author: But I appeal to the whole World, if ever fuch an Argument, be it Mr. Atwood's or Mr. Logan's, was ever heard of before. To me, if I have any Sense at all, this Argument does more plainly furpals common Sense, than it does as I understood it. For if Things are thus to be drawn backwards, and no Deeds, Grants of Obligations, are to be reckoned

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Roned genuine and true, whilefs that ex post facts Acquirrances for the Payments stipulated in them. or the Demands made for those Payments, are all preserved, at least Copies of some of them recorded in Books, and yet extant, downwards for 300 Years; I know not if any Charter of that kind can escape being doom'd a Forgery. But the Absurdiry of this strange Argument, I have more fully exposed above, p. 225, &c. (n)

I have now gone through all the Arguments,

brought by Mr. Atwood and our Author, against the Credit of that famous Charter anno 1364, and have likewise considered all that this last has faid, to invalidate the Authority of those many others, brought by Sir Lewis Stewart, Sir George Mackenzie, the Earl of Cromarty, Mr. Rymer the Englift Historiographer, Sir James Dalrymple, Mr. John Sage, &c. for proving the Legitimacy of our Robert III. and have, I hope, to the Conviction of all thinking Men, whatever Prejudices they may labour under, manifestly and demonstratively shown the Weakness of all, and the Absurdity of most of the Objections which our Author has rack'd his Wit to invent, in order to overthrow the Evidence of them, and confequently of that Legitimacy. All that remains for me to do, is to do myself Justice in some other Things that he

can bis Chronicle. And, 2. Hist old

<sup>(</sup>a) I might also add, that the the Steward of Scotland, or the Abbot of Hely-rood house, should be supposed never to have made so much as one Payment, yet that would not make the Charter a Forgery. For how many Obligations, Bonds, Bills, and other pecuniary Supulations have been granted, of which notwithstanding never one Halfpenny was got or recovered? Our Author has been very lucky if some of these have not fallen into his own Hands,

Lays to my Charge, in which the Main of the Controversy betwixt us is very little concern'd And.

I. In citing my Words in the Preface to the Diplomata, where I (speaking of that small typographical Error, in the first Edition of the Earl of Cromarty's Treatife, which he, after Mr. Atwood, lays so much Stress upon) happened to say, p. 43. that that noble Earl had excellently vindicated the Birth of our Robert III. from the Infamy thrown upon it BY MOST OF OUR HISTORIANS. Upon these last Words, a plerisque historicis nostris, as I have it, he, p. 167. has this Cavil, " Mr. Ruddiman should have said ALL our Historians, down to the Year 1681." But I have no Reafon to alter what I have faid. For all our Historians before the Year 1681 were not guilty of that Falshood. Fordon himself speaks nothing of it, but rather the contrary: For he fays, that Robert II. and Elizabeth More were canonically, and in the Face of the Church, married anno 1249, 1. e. 22 Years before Robert was King; whereas the other Historians, and the Chronological Table our Author so much relies on, make them not to have been married till the third Year of that King's Reign, about anno 1272, i. e. 24 Years after the Time affign'd for the Marriage by Fordon. Again, Andrew Winton Prior of Lochlevin, has not a Syllable of it in his Chronicle. And, 3. That old History of Scotland, mentioned by Mr. Innes, and kept in his Scots College at Paris, speaks as little of it. All these three lived long before Bowmaker, or whoever is the Continuator of Fordon, the first Broacher of that Falshood, I might add, Sir semos or recovered? Our Author has been to

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James Dalrymple, whose excellent Collections will entitle him to be ranked among our most accurrate Historians; as also Dr. Abercromby, whose fecond Volume is the most exact History of our Kings, from David II. to James IV. inclusive. Our Author's Period is the Year 1681: But who confin d my Words to that Period, when my Preface did not come abroad till anno 1739? But however that is, the other three (the most ancient Historians of our Nation) I have named, shew that I had been much in the wrong, if I had there faid what our Author would have me. I wonder that our Author, in the Disposition he is in of cavilling at every Word I fay, did not rather quarrel the Phrase I have in p. 37 of that Presace, ad vindicandos Regia Stuartorum stirpis ab inusta à quibus dam bistoricis nostris labe natales, where the Words A OUTBUSDAM HISTORICIS, i. e. by fome of our Historians, are more liable to Exception than A PLERISQUE, i. e. by most of them, here: But what I have faid does equally vindicate both thefe Phrases.

I cannot but here by the bye, take notice of a Piece of Injustice done by Mr. Logan, or Mr. Atwood, to the Earl of Cromarty, in these Words of his, p. 168. "Mr. Atwood, says he, observing that his Lordship had Charters at his Command, thought that he could with Considence rely on his Lordship's Narration: This made me mention, p. 99. the Charter that the Earl had dain ted anno 1350, as one of Atwood's Arguments to shew the Forgery of the Charter 1364."

By these Words of Mr. Atwood, that his Lordship had Charters at his Command, he seems basely to infinuate

minuate but I hope our Author does not join with him) that that noble Person was capable o forging fuch Charters as he had a mind. He had indeed Charters at his Command, but not in that malicious Sense; for he was Lord Keeper of the was at more Pains about them, and made more Use of them, than any of his Successors have done fince. These particularly he produces for the Le ritimacy of Rabert III. are still there where he eft them, and thew themselves to be genuine to every body that has the smallest Knowledge of ancient Writs. But how comes either Mr. Atwood Gharter of King David II. in favours of the Bihops anno 1250? The Earl gives no Date to that Charter, but lets it down as he found it in the Register, where it ends abruptly, the Leaf where in some of the Witnesses and the Date were writen being long fince (as I have elfewhere ( hew'd) cut out. In the first Edition indeed of his Lordship's Treatise, it is said that that Charter was granted 37 Years before Queen Euphene's Death. This was an Error of the Printer, who had changed 17 into 37. But Mr. Atzwood most Carl had directly and explicitely dated that Charter anno 1350; which was far from the Earl's Thoughts. But how can our Author forgive himfelf, when after the Earl had corrected that Error in his second Edition, (as he in this same Page and elsewhere confesses) and both Sir James Dal-

rymple and I had manifestly provid that that Charter could not be granted in the Year 1250! How, I say, can our Author forgive himself his still infifting upon it, that that Charter was granted in that Year 1350, and no other? It might have fome Colour of an Argument with Mr. Arwood, before that Error was corrected: But now that the Matter is put into so clear a Light, for our Author still to harp upon it, can admit of no manner of Excuse. I would only ask him, how he would take it, if I should, from some Errors of his Printer or his own, of which there are not a few in his Book, make fuch Inferences as these: " That a Man might lawfully have two Wives at once; that one might marry his own Mother; " that the same Marriage was prohibited, and not " prohibited by the Laws of God." For thefe are either expresly said, or by just Consequence may be interr'd from some Passages in his Book (p). 2. THE fecond Thing he lays to my Charge is, That (Jays be, ibid.) Mr. Ruddiman adds, that " unless Atwood had a mind or was inclin'd to dif-" semble, be might easily have found out the Error, " from another Passage in the Book, p. 24: where " the faid Earl mentions the faid Charter of King " David to have been a Deed of his in one of his tast Parliaments." Thus our Author translates my Words, and adds this notable Remark upon them, " Mr. Ruddiman, or his Printer, falls here " into a Mistake. I find it not in p. 24. of the E-" dition, but in p. 53. where his Lordship's "Words are thele," &c. What Plot our Author My no to about it normal Z Z as a general butter has

<sup>(</sup>p) See his p. 106, 107, 119, 121, 178 and 179, and my Animadvertions upon them.

has in this, I cannot divine; but sure when he wrote it, he has been very much absent. I cite the p. 24. (in which are the above Words) of that first Edition of the Earl's Book anno 1695, and which Mr. Atwood, when he wrote his anno 1704, only could see. But would Mr. Logan have me to have been so stupid, as to remit Mr. Atwood to a second Edition of his Lordship's Treatise, which did not some abroad till anno 1713, i. e. 9 Years

after the other's Book was published.

2. This is pretty odd, but that which follows is yet more lingular., Mr. Logan, after reciting the Earl's Words, which are the same in both Editions, viz. King David Bruce, IN ONE OF HIS LAST PARLIAMENTS, passes a Deed, by way of Act, narrating bis Father's Promise and Resolution (q); and therefore be ratifies the faid Promife, and of new grants and confirms to all the Bishops in Scotland Power and Privilege to dispone their Moveables by Testament : Which authentick Act and Deed stands recorded in the Records of the Great Seal. But behold and wonder at our Author's Observation on this: "How could, fays he, " ibid. Mr. Atwood discover, that the Earl had " corrected the Error of changing the Number " 17 into 37; for Mr. Atwood's Book was printbo " Parliaments

<sup>(</sup>q) The Earl has here fallen into a Mistake, for in this Deed of King David there is not the least Mention of any such Promise or Resolution of his Father, or indeed any other King, to that Purpose. That which probably has missed his Lordship is, that in Pope Gregory XI.'s Bull and King James II.'s Charter, confirming that Privilege to the Bishops, (of which afterwards, p. 368.) Mention is made of an Act or Proclamation of Robert II. to the same Purpose; which the Earl has, it seems, missaken for a Deed of Robert I.

ed at London anno 1704, and the Earl's new " Edition of his Book was not printed till the 1712: fo that Mr. Ruddiman, without Ground, " charges Atwood with an Inclination to dif-" femble." Very well faid, good Mr. Logan! But pray, has Mr. Ruddiman faid, or, if he had his Wits about him, could he fay, that Mr. Atwood could discover that an Error was corrected in an Edition of a Book that was not to come forth. till 9 Years after the Publication of his own? Some fuch Discoveries our Author has himself made; one in the Passage we were last upon, and another in p. 106, 107, or. where he makes the Parliament of Scotland to forefee, that Robert's fecond Wife Eupheme Ross would die within two or three Years after their Meeting, and that upon this Forefight they past an Act legitimating John his Son (tho' a Bastard) by Elizabeth More, which they could not have done, but with a View that Eupheme's Death would make way for Robert's marrying John's Mother; and thereby make the Act of Legitimation effectual. See above p. 245 and 278. But I deal in no fuch Discoveries, nor pawm them upon others. All I fay is, that had not Mr. Atwood had an Inclination to dissemble, he might, from these the Earl's Words in the 24th Page of the first Edition of his Treatise, where he tells us, That David II. past that Deed IN ONE OF HIS LAST PARLIAMENTS, have clearly feen, that that Charter could not have been granted 37 Years before Eupheme Ross's Death, or in the Year 1350, as he and our Author would have it. Are not these Words in the Earl's first Edition of his Treatife, in the very p. 24. as I have noted? Zz2 Might

Might not Mr. Atwood have feen and read them there, without foreseeing that there would be a fecond Edition? And if he did fee them, as he certainly might, and most probably did, could he not but perceive that that Charter was not granted in the Year 1250; for King David being (as I have shew'd above, p. 231-234.) then a Prisoner in England, could grant no Charters, and far less hold Parliaments, and far less still grant that Charter in pursuance of an A& made in one of the last of them? And has it not a great Appearance of Dissimulation in Mr. Atwood, to overlook these Words in the Earl's first Edition, which would have plainly discovered that the Number 27 was an Error, tho' there had never been a fecond Edition of that Treatife diself rish rolls area I work

4 THE fourth Thing he blames me for is, that I, in an Annotation on Mr. Sage's Introduction, p. 27. own, that the faid Charter of King David is not entire, and that unluckily the last Leaf, which contain'd the Date and some of the Witnesses Names, bas been torn out, and that perbaps 200 Years ago, &c. (" It is true, fays our " Author, p. 160, that either some of the Witnes-" ses are wanting, or the Name of the last Wit-" ness; for the Words are these, Tostibus Rober-11 to Senescallo Comite de Stratherne nepote nostro 1 supradicto, Joanne Senescallo Comite de Car-" rick, filio suo primogenito & berede, Thoma Co-" mite de Marr, Georgio de Dunbar Comite Marchia, Willielmo Comite de \_\_\_ It is plain, st adds be, that a Part of the Designation of the " last Witness is wanting: But how is Mr. Rud-" diman certain that other Witnesses are wanting?

"For there is a legal Number of Witnesses men-"tioned, and more." I do not fay that the Thing is absolutely certain; but it is extremely probable that there were more Witnesses to this Charter than these we now find named in it. For in other Charters of our Kings, before, at and after that Time, we find generally a great Number of Witnesses: For which I refer Mr. Logan to Mr. Anderson's Diplomata, and to some of those published by the Earl of Gromarty; not to mention a great many more recorded in our old Chartularies. I have other Reasons for thinking, that there have been more Witnesses to this Charter than these five mentioned in it. Because it being a most solemn Deed in favours of the highest Order of the Clergy in the Kingdom, it is reasonable to think that a great many Persons of Distinction would have been brought to adhibite their Testimony to it (r). I never faw a Charter where the last Witnesses are all Earlson 3. Had this Willielmus Comes de \_\_\_\_\_ (which is supposed to be the Earl of Douglas) been the last Witness, there would probably have been an [ET] before for the Land makes Mangion of leveralsmeNaid

fays, that this Charter is torn because it wants a Date. Mr. Logan inverts my Words, for I do not say, that the Charter is torn because it wants a Date.

and I have all Blong been freuking of Matters of

made to the Abbay of Kelso, where there are upwards of forty Witnesses, Anderson's Diplom. No. 24. And in all that Collection there is not one after that Time, and very few before it, which has not a great Number of Witnesses, never under five; but most frequently many more.

Duter but that it wants a Date because it is forn. i. e. because the Leaf in which the Date and the Names of the other Witnesses, and particularly a Part of the Delignation of one of them, has been goo Years ago torn off, or, to speak more properby, has been cut out; therefore the precise Date of it cannot be certainly known. For this I bring a double Proof: r. That in all the Copies which I have feen of Fordon, this Charter is recorded, and in every one of them it ends abraptly with Wil lielmo Comite de Douglas, &c. 2. In our publick Archives it ends abruptly after the fame Manner. Would our Author be at pains to look to it there. it would (if any thing can) convince him, that what I fay is Truth. For he would fee that the last Line of that Page ends with Comite de, and what the Writer had further to add must have been carried to another Page, and if that was cut our, for the fake of a Piece of clean Parchment, after wards, how could he help it? Will that destroy the Credit of what remains? tietmes Comes de

6. But, says our Author farther, ibid. "How eas Mr. Ruddiman sure that ever it had a Date, "for the Earl makes Mention of several Charters which he owns have no Date?" Indeed, after the Method that our Author takes with me, I can be sure of nothing. He will hardly allow me to be sure of first Principles; and if I am beaten from these, I know not what to take hold of. Both he and I have all along been speaking of Matters of Fact, and these, I hope, I need not tell him do not admit of mathematical Demonstration; but must depend upon such moral Evidence and human Probabilities as their several Natures and Cir.

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cumstances will allow. Upon these, all Transactions among Men, all Treaties, Contracts, Charters, Bonds, Obligations, all historical Relations and Documents of all Kinds, must stand, until our Author find out a new Way of bringing us to a higher Degree of Evidence than Mortals have hitherto been able to find out. As to the Certainty I have, that that Charter of King David has had a Date, I can fay no more, but that all the original Charters that I have feen, written in or about that Time, have constantly a Date, either of the Year of God, or of the King's Reign, and often of both, inserted in them, and generally in the Copies or Transcripts of them; And if there are some, where that is wanting, I have Reason to believe, that either the Things treated of were of small Moment, or demanded present Execution or that the Omission of the Date is owing to the Carleffness of the Transcribers. But whatever is in all this, if the Charter is genuine, we need be the less anxious about the Date: By the first Word of it we are fure it is a Deed of King David, and that alone with John's being stil'd Robert II.'s First-begotten and Heir, is sufficient for our Purpose.

7. BECAUSE it wants the Date and some of the Witnesses Names, it is therefore, says our Author, p. 170. not probative. That is hard. It is certainly entred into our publick Records, and written out at or near the very Time it was granted; and must a small Defect at the End, render the Charter not probative? Fordon, and these who have copied after him, certainly thought it probative, otherwise they would not have been at pains

Oderch, Anno Domini 1450, and of his Reign she 15.

Defects. But what puts the Matter, I think, beyond all Doubt is, that in the same Scoticbronicon we have recorded (1) a Bull of Pope Gregory XI. dated at Avignon, xiv. Kal. Apr. in the 5th Year of his Pontificate, i. e. anno 1376, excommunicating all those who should seize upon the Goods of the Bishops of Scotland after their Decease, where in express Mention is made of this Charter of King David (1). It is likewise mentioned and referred to in a Charter of our King James II. wherein this Privilege in favour of the Bishops is renewed (u). If all these will not render King David's Charter probative, I know not how any thing can be proved.

B. But our Author goes a Step yet higher:
For, fays be, ibid. tho' a Charter should narrate a Score of Witnesses, yet if it does not aprepear that they did actually subscribe it, it is
for that very Reason null and invalid." Nay,
say I, if a Deed is entred into a publick Record,
and it has happened that the Subscriptions of the
Witnesses have been torn away afterwards, I besieve our Courts of Judicatory would sustain it as
valid. But be that as it will, I add further, that
when

(s) Scotichron. Vol. iv. p. 1103. of Hearne's Edit.

Names et is

<sup>(</sup>t) The Pope's Words are, Et quod, liest olim clara memoria David Rax Scotia, dum ageret in humanis, più confiderans, quòd hujusmodi consuetudo abusiva es desestabilis existebat, cam abolere decrevisset, ac cam penitus revocasset es sustabilist, ac mandasset illam de cetero nullatenus observaris ecc.

<sup>(</sup>a) In the Extracts from the Register Books of Glasgow, p. 32, 33 and 34. the Date of it is, At Edinburgh 24 Day of March, Anno Domini 1450, and of his Reign the 15.

when Mr. Logan shall produce so much as one Charter of our Kings, from that Time to this very Day, with the actual Subscriptions of the Witnesses named in them, I give up the Cause as defenceless, and shall never appear in it more.

9. Our Author, end. pag. repeats the Words I had faid, in my Preface to the Diplomata, p. 42. in which, as he translates them, I affirm, That this Deed of our David II. is the last, and that it is recorded after twenty other Chartens, written in the 41/1 Year of his Reign; and confequently that it was written in the Year of Grace 1270 or 1271. But, fays be, I cannot understand this Alterna-" rive, 1370 or 1371, which makes it doubtful: " For if it is recorded after twenty Charters writ-" ten in the Year 1371, it cannot be faid, or after "the Year 1370." What triffing, as well as Incoherence, have we here? Is it not wonderful. that when he had my Words before his Eyes, and has been at pains to make English of them, he flould to groffy militake their Meaning? For where fay I that these twenty Charters I speak of were written in the Year 1371? I say indeed that they were written in the 41st Year of David's Reign: But it will not thence follow that they were all written in the Year 1371 (v). Had he in the least adverted to what I say, in a Note I make on Mr. Sage's Introduction, p. 37. (on which on other Occasions he thinks fit to pass his Animadversions) he might have seen that I have said the same thing, but a little more fully, which erend and confedurative

<sup>(</sup>v) Does our Author imagine, that the Reigns of our Kings commenced on the first Day of the Year, as the old Roman Confuls did then enter upon their Office?

I do in the Place he is now upon; and particularly that all these twenty Charters of King David, except three, were written in the Year 1270, and not 137 b, viz. four in September, nine in October, three in November, one in December, in all 17. and the remaining three in the following Junuary 1371, according to the Roman Computation, but according to the Computation of the Church of Scotland at that Time, and that of the Church of England at present, in the Year 1370. That it must have been so, appears from this, that both in that Note, and in a Note I have on Buchanan, p. 432. col. t. and two Notes in faid Preface, one p. 40. at [c], and another p. 43. at [h], I shew that David II. died on the 22d February 1370, according to the old, and in the Year 1371, according to our present Scots Computation. And this alone, were there nothing elfe, might make our Author understand my Alternative of 1370 or 1371. But I had another Reason for my Alternative, viz. That tho', as I observe in the Note on Mr. Sage's Introduction, the Order of the Years is followed in King David's Charters, yet that of the Months or their Days are not always kept. And because it is possible that that Charter of his, from which the Date has been cut away, may have been granted before some others that are recorded before it, and perhaps before January 1371, therefore I spoke cautiously in using the Alternative 1370 or 1371. Tho' after all, as it is placed last in King David's Book, I firmly believe it was the last Charter he eyer granted, and consequently in the Year, according to our present reckoning, 1371. Die die Erich of Deser Deser Tipals imagine; t

I pass over his saying, If that Charter is recorded after twenty Charters written in the Year 1371, it cannot be faid, or after the Year 1370 : For I suppose it is an Inadvertency of our Author, or his Printer. For certainly if that Charter is recorded after twenty Charters written in the Year 1271, it can and must be faid, that these twenty, and particularly this controverted one, which is later than most, if not all of them, were written after the Year 1370. I cannot therefore but think that our Author defign'd to have faid in (not after) the Year 1270: For what is written in the Year 1271 cannot be faid to be written in the Year 1270. But all this is out of purpole, for I do not directly mention the Year of God in which any of these twenty Charters were granted, (as neither do the Charters themselves) but only say, that they were granted in the 41st Year of King David's Reign; and thence infer, that seventeen of them were written in the Year 1370, and three of them in the Year 1271. It is therefore most unreasonable in Mr. Logan to make me fay the Thing I neither did nor could fay, and then run me down as if I had blame in thele " Words of mine, which, fay it bish

what he immediately adds, "Further (fays he) it is no Proof at all of the Date of it, that it was "written in anno 1370 or 1371, because it is inferted after these Years; but rather a Proof of the Ignorance of the Recorder. For since it is "own'd by all to have no Date, it should not have been recorded in any Register whatso "ever." Bless me! Does our Author know what he is saying? Are we fighting in the Dark, and A a a 2 playing

Playing at blind Man's Buff? For to me his Words are incomprehensible. He says, That it is inferted after the Year 1370 or 1371. But who ever faid or dream'd that it was inferted after the last of these Years? Would he have it brought to the Year 1272, or farther? Have I not fixed it in the Year 1370 or 1371? Lower than this last can no Man bring it: For David the Granter died on the 22d February that Year, which is not far from the Beginning of it, according to the present, and before it, according to the old Reckoning But where appears the Ignorance of the Recorder? He recorded it faithfully as it was: But could he hinder some unlucky Hand from cutting away some two or three Lines in the End of it afterwards? What if some wicked Person should, some Years hence, tear away some Lines from a Record of Parliament, an Act of Privy Council, or even of an Act of our Scatiff General Assemblies, would that Person's Wickedness rebound back upon the Clerks that wrote them, and prove them either ignorant or unfaithful? on oxion

blame in these "Words of mine, which, says be, I "subjoin in the Preface to the Diplomata; Utique "cum Edinburgi sit datum anno 1350, exarari "non patuit box diploma ab anno quippe 1346, ad "1357, David noster in custodia apud Anglos tembatur, nullum certe toto eo tempora Edinburgi "ardinum regni conventum habuit." I wish our Author had rendred the Passage in English, as he commonly does elsewhere: For, as he gives it, it is so wretchedly mispointed, that I could not have understood it myself, till I looked to that Preface.

playing

P. 43

2. 43. where my Words stand thus: ! Utique cum Edinburgi sit datum, anno 1350 enarari non potuit bac diploma; ab anno quippe 1346 ad 1357 David noster in custodia apud Anglos tenebatur; nullum certe toto es tempore Edinburgi Ordinum regni con gentum babuit. The wrong pointing may be own ing to the Printers, but I have too much Ground to suspect that our Author himself had some Hand in it, by what he immediately adds, viz. Ms to "this Passage (fays be) I cannot observe any Ac-" curacy in Mr. Ruddiman, Inor will any body elfe, as be has pointed my Words] " for first he " Supposes, that the Charter was dated at Edin " burgh, where our David had no Meeting of the "States from the Year 1346 to the Year 12 57." What Nonfense and incoherent Stuff makes he me here speak? He fays, I suppose that the Charter was dated at Edinburgh, where I Suppose he means when our David had no Meeting of the States from 1346 to 1357. Is it not plain, that he does what he can to pervert and perplex the Argument I bring to prove, that that Charter could not have been granted in the Year 1250? He takes away the Gomma I have after the Word datum, and puts it after 1350, where I have none; and thereby makes me fay the very contrary of what every one who understands the Language, must see I have faid, and is obviously this; That because this Charter is granted at Edinburgh, therefore it could not have been written in the Year 1250; for from the Year 1346 to the Year 1357, David was beld a Prisoner in England; at least be bad no Meeting of the States of the Kingdom all that Time. so so severate to Properties

min 22 And laftly, ibid. he finds Fault with my faying that the Charter was given at Edinburgh: For, Tays be, the Charter bears it past at Perth; the Words are: In pleno noftro Parliamento tento apud Perth. Deg his Pardon; the Charter fays no fuch Thing, but only that it was granted by the Confent of a Parliament holden at Perth. The Words are de consensu & assensu Roberti Senescalli Scotie nepotis nostri & liberorum suorum (for they, as his next Heirs in their Order, are here brought in) nec non aliorum Baronum & Procerum (he could not fay Prelatorum, for in their Favour's the Charter granted) ac trium communitatum regni nostri, in pleno nostro Parhamento tento apud Perth. All this might well be, and yet the Charter be granted at Edinburgh. Our Parlia ments in those Days did not commonly sit above five or fix Days. After thefe were over, the King might return to his capital City, and there grant this Charter. And that he accordingly did fo, to me is almost certain from this, that he past the last Days of his Life and at Jast died in the Castle of Edinburgh: And which feems to put the Matter out of Doubt, the Charter immediately preceeding this is dated at Edinburgh on the 29th of Januaory, in the Year, as I faid, 1370-1,1. e. 24 Days be fore King David's Death, which was, (as I have oft en faid) on the 22d Day of February following. Some Readers will here forgive me, that by the bye I make an Observation upon this Charter, viz. that it is faid to be granted with the Confent of Parliament; which shews, that in those Days the People of Scotland were as tenacious in preferving their Sovereign's Rights and Prerogatives, as their own Properties CKA IS

Properties and Privileges; and would not suffer their Kings to give them away, without their special Consent; as well judging that the Honour and Happiness of the Nation depended on the one as much as on the other. How vastly different from these Principles were these of our Saints in King Charles I. Time, who after they had made him give up almost all the most valuable Jewels of his Crown, at last (as that had not been enough) took off the sacred Head that were it.

I have now gone through no fewer than twelve of our Author's Objections, or rather Cavils against me, and have shewed to the Conviction of all the sincere Lovers of Truth, (of whom I hope we have still some few remaining among us) that most of them are calumnious, and all of them egregiously empty and vain.

FROM this to the End of his Treatife, our Author entertains his Reader with little else, than with Repetitions of what he had said before: All which I have taken under Consideration in their proper Places. What Things now remain worth observing, are,

Diplomata, p. 42. I pass from the Alternative [or Bowmaker the Continuator.] I suppose he means, that whereas in my Note upon Buchanan, I thought it might be one Russel who was the Continuator: I here do call him Bowmaker. I have more than once told before, that there are three who claim the Honour (at least are given out to have it,) of being Authors of that Continuation, viz. Russel,

Bowmaker and Mackulloch. Which of them has the justest Title, cannot now certainly be determined.

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But by what I find in Mr. Hearne's Preface to his Edition of Fordon, and otherwise, I begin to think that Bowmaker bids fairest for being the principal Compiler. It is however of small Importance which of the three that Work belongs to, since it has been demonstratively proved, that what is said in it, with respect to the Illegitimacy of Robert III, is an arrant Falshood.

"II.'s Children were legitimated according to Formation, by a Dispensation granted from the Apostolical Chair: But the Charter 1364 says that the
Bishop of Glasgow was delegated to do it." And
where is the Inconsistency here? Would he have
the Pope to have come to Scotland, and have executed that Dispensation personally himself? But
see what we have said of this above, p. 227.

addy, Then he observes, ibid. that I should say, that if Elizabeth Muir was not married to Robert II. till the Death of Eupheme Ross, which, according to Bowmaker, did not happen till the Year 1387, when John, Elizabeth's eldest Son, was, as I there shew, at least sifty Years old, she must have been a very old Woman, and have lost all her Charms. And are not these my Inserences just? But how comes he to translate my Word effuram, which I there apply to Elizabeth, calling her effurate anus, [unsavoury]. In what Dictionary did our Author find it so rendered? For in all mine, the English given for it is, past having young, barren, worn out, decay'd, and the like (w).

4thly,

<sup>(</sup>w) Our Author, it seems, derives the Word effætus from fætso, to stink, or have an ill Smell or Sayour; whereas it comes

4thly, AFTER mentioning some Disagreements among the Defenders of John's Legitimacy, con-cerning the Time of Robert and Elizabeth's Marriage, of which I have spoke elsewhere, yet he owns, " that all of them are unite in op-" poling the Sentiment of Boethius, Major, Les " Ty and Buchanan, though, adds he, much " greater Men than themselves go in with it, " as Sir John Skeen and Sir Thomas Mur-" ray, both Clerk Registers, who, in their Chro-" nological Tables, agree, that Euphemia was "Robert's first Wife." Comparisons, as we commonly say, are odious, and it may bear a Doubt whether Sir Lewis Stewart and Sir George Mackenzie, not to mention others, were not in all Respects equal to Sir John Skeen, and much superior in Learning to Sir Thomas Murray. But what has Greatness or Smalness, either of Dignity or Literature, to do in this Question? These whom he will have to be the Authors of the Chronological Tables, and the Historians they follow, are all of them but Hear-fay Witne fes, whole Testimony would not be admitted in any Court of Judicature; but the other produce the original Witnes fes, or rather lay before our Eyes the very Facts themselves, i. e. they bring into Judgment a great Number of authentick Documents writ at the Time, when the Matters now controverted happened, and which are yet extant in the publick Archives of Scotland, England and France, all harmonioufly

the Adjective fatus, big with young, and effatus, i. e. extra fatum, five non idoneum fatus amplius procreando, past the Age of bringing forth young.

moniously concurring with one another, in the Confirmation of one and the same Truth. Are any Men in the World, who lived most of them long after the Time, be they ever so many, or ever so great and learned, to be put in the Balance with these? It is not Sir Lewis Stewart, or Sir George Mackenzie, or the Earl of Gromutty, &c. that speak, most of whom were also great and learned Men; but the Chargers and other Documents which they produce as Noughers of what they fay. For, as Mr. Anderfan (x) most justly obferves; "Of all Proofs in History, none are fo concluding and pointed as Charters; THEY " SPEAK FOR THEMSELVES, and need no rhe-"torical Embellishments or Flourishes to per"fwade." Let not then our Author talk any more of our Historians; for were there a thousand more of them than there are, one well attested Charter is of incomparably greater Authority than they all. From this alone it appears of how little Consideration is the Chronological Table Mr. Logan fo much harps on, and gives us now a more full Detail of than before. I am perswaded that neither Sir John Skeen nor Sir Thomas Murray did compose it, but took it implicitely from some Abridgement of our History, with this Table fubjoined to it, writ a little after the Publication of Buchanan's History. My Reasons for so thinking, I have given above, p. 174.

that because, at the Distance of 400 Years, it cannot now be certainly known wherein the Consanguinity between Robert II. and Elizabeth More did

<sup>(</sup>x) Independ. of Scotl. p. 15.

did ly, therefore there was no Confanguinity between them; and the Charter that fays there was, is a Forgery. But the Absurdity of such an Inference, I have likewise shew'd above, p. 236.

6thly, HE fays, p. 177, " Mr. Ruddiman, he " hopes, will agree with him, that the Bishop of Rome, and his pretended Delegate the Bishop " of Glasgow, had no just Power to dispense with " a Confanguinity forbidden by the Divine Law." What then? Does Mr. Ruddiman or any other fay, that the Confanguinity between Robert II. and Elizabeth More was of that Kind? So far from it. that he does not believe that their Confanguinity was fo mear as that of first Cousins, whom yet the Law of God allows to marry. But see what a Heap of Contradictions and Incoherences our Author gives us here, and in the two following Pas ges. Immediately before, because no body can now with Certainty tell what that Confanguinity between Robert and Elizabeth More was, he will not allow that there was any at all: Now he will have it to have been fuch a Confanguinity as hindred them from being married by the Law of GOD. Again, in p. 179. 7. 3. he fays, "That the Par-" liament allowed of the Marriage, there being no " Confanguinity forbidden by the Divine Law to "hinder it." But in the same p. at 1. 27. he fays, " Mr. Ruddiman and the modern Accusers " of our Historians own, that Robert III. was a " Bastard before his Father married Elizabeth his " Mother; that his Father and Mother married" " when there was a lawful Impediment, viz. Con-" fanguinity forbidden by the Divine Law; which " was to add Wickedness to their Sin: It makes Culet 3 Bbb2 not

mot only the Parties to fin greatly, but the Pope presumptuously to sin, by usurping a Power as hove the Prerogative of God, so that the Infamy is not wiped off," And lastly, in p. 180, he gives his own Opinion, that "John was a Bassistant by an ante-nuptial Fornication; that some time after, they were married, there being no Consanguinity to hinder the Marriage." And concludes with these Words, "There is nothing more commonly practifed than such Marriages, the best Way to redress the Injury done to the Woman being to marry her; and the this does not remove the Guilt, yet the Scandal is in some measure thereby removed."

Quo teneam vultus mutantem Protea nodo?

Were ever so many Things huddled together, in which the Author is inconsistent with himself, with his Scheme, with his Historians, with good

Sense and with Truth? For,

I. WHERE did our Author find, that either I or any of the modern Accusers of our Historians. did own that Robert IL's Marriage with Elizabeth was within the Degrees of Relation forbidden by the Divine Law? I could fwear for my felf, and to I believe could all the rest, were they alive, that it never so much as entred into their Minds. I can see no Reason our Author can possibly have for faying thus of us, unless it be that there was a Papal Dispensation in the Case, For it would seem, with him, that whatever that Man of Sin toucheth with his Hands, does thereby become unhallowed; and that the Marriages he dispenses with, tho? otherwise lawful, do thereby become incestuous! But I must tell him farther, that some of the Accufers 2007 44

eufers of his Historians do not own that Robert III. was ever a Baffard at all. Mr. Hav contends that the Dispensation was obtain'd, and the Parents canonically married before Fobn was born and the Earl of Gromarty inclines much that way. A Mr. Sage Supposes their Marriage was at first private; but that they standing within the Degrees of Confanguinity forbidden (not by the Laws of Gop. but) by the Canon Law, it required in those Days a Dispensation to take off that Impediment; and that, had it not been for the Prohibitions Superadded to the Divine Law, (some of which I am told are as ancient as the Emperor Justinian's Time) a private Marriage with us, or even Cohabitation together for a confiderable Time, or their owning one another to be Husband and Wife, would have made all their Children legitimate from the Beginning. As for all the rest of us that speak of that Confanguinity, we have owned that we cannot precifely determine wherein it consisted: And is it not for that Reason, that our Author again and again will not allow that there was any Confanguinity between these so often mentioned Parties? But. its this to be ain to the inches a trail server

2. Tho' our Author will not allow Popes to dispense with their own Laws, yet, a little above, as I said, he allows a Parliament a far greater Power, such as no Pope on Earth ever pretended to, of legitimating a Bastard Son, and making him Heir of a Kingdom, in contemplation of a Marriage that was not to be contracted till two or three Years after, when at that very Time the Husband had another Wise, and two or three Children by her. See above p. 245.

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3. I

Marriage, the there is not a Syllable of fuch an Allowance, nor is so much as Elizabeth nam'd in the Act he refers to? But were our Kings so ferter'd at that Time, that they could not marry any free Woman, till their Parliament gave them Leave? There was then no Difference of Religion that might check them in their Choice; and, as the Song has it, If the Kirk would let me be, i. e. If the Pope or his Clergy, by their canonical Prohibitions, did not put a Bar to it, no Parliaments would hinder them from matching with whom they

a private Marriage with ust or even Coholb'saslo

4. HE resolves all into an ante-nuptial Fornica. tion, and thinks that Robert's marrying Elizabeth fome time after, did redress the Injury done to ber, and that the Scandal was thereby in some measure removed. But he does not confider, that he does thereby make Robert II. guilty of a very great Intury to both his Wives, 1st, To Elizabeth More, in casting her off, after she had born him ten Children, and taking to himself another Woman for his Wife, and never thinking on his old Miftress, till this his first Wife, as he will have it, after a great many Years, was dead. 2dly, To Eupheme Ross, in preferring his natural Son to the Crown, before the Son she had born to him in lawful Marriage. Besides, I much doubt if a Son in John's Circumstances was capable of Legitimation, and am fure that no Law under Heaven would give him the Preference before one, of whose original Legitimacy there was no Doubt. This alone, were there nothing elfe, and supposing we had no Documents to 1.3

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Falshood of what our Historians relate concerning Robert III.'s Illegitimacy. For it is infinitely incredible, that a whole Nation, which had almost been destroyed by former Competitions for the Crown, should manimoutly give it away to a Barstard, when there was a lawful Heir then existing, whose Title to it was incontrovertible, and such as no After marriage with the Mother of that Barstard could possibly divest him of. But our Author says this away possible. But, say I, it was no of therwise possible, than by supposing a King and all his People to have arrived at such a monstrous Degree of Infatuation, as no Mad-house can exceed them.

I have past over two Things in our Author, p. 178, viz. 1. That he makes Fordon say of Elizabeth Mare's Marriage, what is said only by his Continuator, as I have observed above, p. 3581 And 2. That he makes the Parliament of Scotland allow John to marry his own Mother. For, that I may not take any Advantage of him, I am willing to impute these Errors to his Printer rather than to himself, the has not been so kind as to make the same Allowance to others.

HAVING spoke so much of the Consanguinity and Affinity, that are mentioned in the Parisan Charter to have been betwixt Robert II. and Elizabeth More, I have reserved to this Place to enquire a little farther into that Matter, and by the Researches I have made into the Genealogies of that even then illustrious Family of the Stewarts, I think I can now shew, I. That the Affinity is said

faid to be dispensed with in the Charter, yet there was really none between them, unless it was a spiricual one, that could hinder their Marriage; and that their Relation stood in Confangumity only? 2. That that Confanguility was not fuch as could put a Stop to their Marriage by the Divine Law. And a. To shew wherein it most probably did confift. But before I proceed, I must premife, that I never read or heard of any Dispensations granted by Popes for Marriages prohibited by the Divine Law, but in two Cases; the first in that of Affinity, viz. for a Man to marry his Brother's Relief, and that only when neither of them had Children before, and the fecond in the Cafe of Confanguinity, by which an Uncle is permitted to marry his Niece, and that, I suppose, when she had not had a former Husband (y). zid. As to Affinity then, fince there is a Difpere

As to Affinity then, fince there is a Dispensation mentioned in the Charter, and that of a Man's marrying his Brother's Relict is the only Case of Affinity that Popes dispense with; if I prove that Reserv and Elizabeth stood not in that Relation, it will follow that it was not on the Account of Affinity (unless, as I said, a spiritual one) that the Dispensation was granted. That Elizabeth

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e focke fo moth of the Confinentiality

<sup>(</sup>y) The Canonits deny that either of these Marriages are contrary to the Law of God. Not the former, for that was not only allowed, but commanded under the Mosaical Dispensation. Not the latter, for tho' in Levinieus xviii. a Man is forbidden to marry his Aunt, yet there is no Prohibition there mentioned against one's marrying his Niece: And it is only from a Parity of Reason that we Protestants infer the Unlawfulness of such a Marriage. But the Canonists alledge an Indecentia in the one, which is not in the other. I will not dispute the Matter, being persuaded that was not the Case here.

beth More then was not the Relief of Robert's Brother, will appear, r. From the natural Averfion the Generality of Men have to fuch Marriages. 2. That fuch Marriages are never difpenfed with. but inter magnos Principes & ob publicam caufam (z), which cannot be alledged here: 2. That Robert (as all agree) was Walter Steward of Scotland's eldest Son; and it is scarce credible that he would marry the Reliet of his younger Brother. 4. As Robert himself was not above 20 Years (as we have elsewhere prov'd) when he took up with Elizabeth More, it is as little credible that a Brother of his, who, as being of a posterior Marriage, must have been some Years younger than he, should have had her before. And 5. All our Genealogists mention only one Brother of Robert, named John; but he was alive anno 1364, being a Witness to the Parisian Charter that Year, long as ter Elizabeth herself was dead.

Niece, is to me no less clear: For then she must have been either his Brother's or his Sister's Daughter. But, i. That she could not be the Daughter of his Brother, is (not to mention other Reasons) evident from this, that then she could not be the Daughter of Rowallan, and her Sirname More, but Stewart. 2. That she could not be the Daughter of Robert's Sister, is almost certain from the Age of Walter, Robert's Father, who then must have been her Grandsather. Mr. John Barbour, the Author of the ancient History of King Robert Bruce, assures us, that this Walter was (as

<sup>(2)</sup> See Council of Trent, Seff. 24. cap. 5.

he expresses it) a beardless. Hyne, it en a very young Man at the Battle of Bannockburn anno

1314 (a) And Mr. David Simfon (one of the most accurate of our Genealogists) informs us, that he was born in the Year 12021 And if Robert his Son took to Wife or Mistrels the said Elizabeth (as I have Thew'd elfewhere) anno 1935 or 1326, it was almost impossible that the should then be fit for Marriage. For, according to that Computation, first this Walter, then his Daughter, and laftly his Grand-daughter, must each at a Medium have been married when they were hardly 14 Years of Age; which, in three successive Generations, is not to be imagined. Whatever Confanguinity therefore there was between Robert and Elizabeth, it could not be that of Uncle and Niece, and confequently (for the Reason assign'd before) their Marriage could not fall under a Divine Prohibition.

III. It remains to enquire what that Confanguinity was, which, not by the Divine, but Canon Law, did put an Impediment to Robert and Elizabeth's Marriage. Mr. Crawford in his History of the Stewarts, p. 17. fays, it proceeded from a Marriage of a Daughter of one of the High Stewards of Scotland with the Baron of Rowallan. But as the most accurate Mr. Simson, in his History of the House of Stewart (in which he gives a particular Account, both of their Children and the Fami-

<sup>(</sup>a) P. 214, of Andrew Hart's Edit. This J. Barbour is the more to be credited, as he is one of the oldest of our Historians, and wrote his Book, as he tells us himself, p. 267. anno 1375, in the 5th of the Reign and 60th of the Age of Robert II. 46 Years after the Death of Robert I.

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lies they were match'd with) does not mention any fuch Marriage, I therefore incline very much to think that the Confanguinity in Question had its Rife from the Marriage of Sir Adam More, Elizabeth's Father, with a Daughter of a collateral Branch of the Stewart Family. And the only Perfon I can pitch on is Sir John Stewart of Bonkyl, who was Brother of James, and second Son of Alexander, Lords Stewards of Scotland. This Sir John was slain in the unfortunate Battle of Falkirk anno 1298, having left behind him (according to Mr. Simfon) at least five Sons and one Daughter. As then, 'tis highly probable, that among the Offfpring of so many Sons there would be some Daughters; so we may easily suppose, that some one or other of them should have been married to Sir Adam More of Rowallan, the Father of Elizabeth first Wife to Robert II. And if so, the Relation between them will stand thus:

ALEXANDER Steward of SCOTLAND.

1. James, Steward of of Scotland.

2. Walter, Steward of Scotland.

3. N. a Daughter, Wife of Sir Adam More.

3. Robert, Steward of 4. Elizabeth More Wife to King Robert II.

King Robert II.

JOHN, afterwards King ROBERT III.

C c c 2 This

and third Coulins, i.e. they were within the third and fourth Degrees of Contanguinity.

OUR Author, after having finished his strange Performance, has thought fit to add two Pages by way of Postscript; which yet contains little else than what he had said before. It is taken

seasewill's Father, with a Dannier of a collateral

up with three Things. The art of pink army

I. THE first is concerning a Conjecture of Mr. Rymen, who supposes that the Earl of Athole and his Accomplices in the Murder of King James I. were the Forgers of that Fable, that John the Father of James was a Bastard, and that that Monster of Wickedness did thereon found his Pretensions to the Crown. Our Author acknowledges that the Story of Robert III.'s Bastardy " might have " been a Contrivance of the Murderers of that ex-" cellent Prince, they having this Turn to ferve " by it: But, adds be, our Historians had none, 16 nor have their Accusers been able to advance a-" ny thing to make it probable that they had. "This Conjecture, continues be, frees Ruffel, whom Mr. Ruddiman has charged as the Con-" triver at first." Thus he. But might not the Accomplices of James I.'s Murder, and particularly that Arch-Traitor the Earl of Athole, as they had contrived that Falshood, in which they had their accurfed Ends to serve; so likewise make it their Business to propagate it as much and as far as they could, and thereby impose upon a great many? And might it not, among others, have been told to this Russel or Bowmaker, or whoever was Forden's Continuator, who, especially if he was a Creature Creature of that Earl, (as Sir James Dalrymple very probably supposes he was) would be ready to lay hold on it, and give it a Place in his History? It is a common Proverb, That one will make a thousand to lie. It is said of Cromwell, another Murderer of a King, that he did not stand to all firm. That one good Lie, i. e, a well contrivid one, was to him worth 10000 Men. And truly fo it was; for it was by these diabolical Means that he came to the Possession of a Kingdom, which that other Son of Belial was aiming at. What Tragedies of that kind have been acted by that hellish Art, there are but too many Instances upon Record, in the Histories of all Nations, but in none more calamitous than in ours. What were they but Lies that brought about that Murder of our Fames I.? What were they but Lies that animated our James IV. otherwise an excellent Prince, to head a rebellious Faction against his own Father Fames III. and made him accessory to his Death? What were they but Lies, and these under a Mask of Religion too, that first dethroned our Queen Mary and King Charles I. and afterward brought them both to the Block? O Religion, Religion! What a strange Metamorphosis has thou, in these later Ages, undergone! In thy more ancient and purer Times, nothing was more hateful to thy true Followers, than Falshood and Lying, Hypocrify, Treachery and Dissimulation. But now that these primitive Days are gone, and that temporal Things are more regarded than those that are eternal, what Falshoods, Lies and Perjuries have thy pretended Votaries stuck at, in order, as they gave out, to promote thy Interest, when they had nothing but their own in View! Righteous la faculd have faid a rea.

Job, reproving his Friends of Partiality, could say to them, Will you speak wickedly for GOD, and talk deceitfully for him? Will ye accept his Person? But now these that would be thought thy strictest Followers, O Religion, can talk deceitfully for thee, can accept thy Person, and under a Pretext of advancing what they call thy Cause, can exalt thee above the Throne of God himself, who is the Father and Lover of Truth, and the great

Object of all Religion! to applied and or some ad

. II. THE next Thing in our Author's Postfeript is, to confirm the Observation he had made p. 154, (b) of a Mistake (as he fancies) I had fallen into, about the Use of the Plural Number by Subjects of the first Rank. I had faid (and still adhere to it) that there were none of the first Rank of Scotimen I know of, but at that Time, i. e. anno 1364, did use the plural Number in granting of Charters. " But this 45 is (fays our Author) a Piece of great Forgetful-" ness: For in Mr. Anderson's Book of Charters, MI find, adds be, no less than fifteen Charters. wherein the great Men, the Granters, speak of " themselves in the singular Number, Sir William "Wallace, when Viceroy, being excepted." I have sufficiently vindicated what I said as to that Matter, above, p. 259. And it is not a little furprizing that our Author should tax me in that Place of a Mistake, and here of great Forgetfulness, especially when I add, as he confesses, at that Time. or ea tempestate, as I have it? For, of all the Charters he speaks of in Mr. Ander son's Book, the Granters whereof he fays were great Men, Tf, There is not one who did not live 100 Years they gave out, to promote thy Interest, when they

had noting but their own in View! Righteons

<sup>( )</sup> He should have said p. 164.

these there are only three that are Earls, which was then the first Rank of Nobility in Scotland, viz. the two Cospatricks and Waldeve, Earls of Dunbar. The first of these died anno 1147; the second anno 1166, the third anno 1182. And is it a Wonder that they do not use the plural Number, when speaking of themselves, when our Kings had not till some Years after taken up that Custom?

his Postscript, is concerning some Varieties in the Editions of Sir George Mackenzie's Jus Regiums But of these I have given such an Account already p. 327, that there is no Occasion for saying any thing more of it in this Place.

I have now gone through all the Parts of the Rev. Mr. Logan's Performance, and to the best of my Knowledge have omitted nothing that is material in the Controversy betwixt us. What I have faid will, I think, also serve to answer some Things which he has in his Dedication on the same Head. There is only one Passage in it, which may feem to call for a more particular Consideration. It is in p. vi. where he fays, " That he cannot be brought to be of the Opinion, that God intended there should be an hereditary in-" defeafible Succession of Kings as his Ordinance? " unless he would endue them with hereditary "Wisdom, Justice, Goodness, and all other ne-" cellary Qualifications for right Administration of the Government." I will not launch out here into a critical Disquisition concerning that Matter-All I shall say, is, 1. That it seems pretty evident from holy Writ, that monarchical Government first that

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first in Families, and afterwards in Nations and Kingdoms, and that transmitted down by hereditary Succession, was the only Government that Almighty God did primarily institute and appoint to be kept up in the World. 2. That as the love reign, all-wife and all-good Being defigns the Happinels of all his Creatures, and especially of publick Societies and Communities of Men, so, if he did inflitute any Form of Government, it is reasonable to think, it would be that which is best firted for promoting that End! And that the Government I am speaking of is such, and preferable to all others, is confirmed by the Experience of all Ages. 3. What Arengthens this Argument to a very high Degree, is, that from the Beginning, and as far as we can trace the Original of Nations, that Porm of Government was the only one that obfore any other was invented or thought of, and has generally prevailed ever fince to this Day. 4. By our Author's Argument, Lands and Inheritances should not descend to the Heirs of the present Possessors, unless God had endued them with virtuous Dispositions for making a right Use of them: Whereas we have but too many Examples to the contrary. 5. His Argument proves too much, for according to it, there should be no Succession at all, either hereditary or elective, in Kingdoms or Commonwealths, or any Offices civil or ecclefiaftick: For God has no where promifed that he would, nor could he (without rendring the Persons advanced to these Dignities or Offices impeccable) endue them with all the Qualifications necessary for their right Administration. Nay, fo far from it, that it will be found that many more

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that have come to these Dignities or Offices by Way of Election, have proved weak, foolish and wicked, than those that have obtained them by hereditary Succession. 6. And to silence our Author on that Head, I can assign him two Instances, where God did appoint the highest Offices and Powers to descend by hereditary Succession, without enduing the Persons to whom they should devolve, with the excellent Qualifications he fpeaks of. The first is that of the Priesthood among the Hraelites, which was entailed on the Posterity of Aaron; and the second of the regal Government of the Kingdom of Judah, confirmed (as the Scripture expresses it, 2. Chron. xiii. 5.) by a Covenant of Salt, to the Heirs and Descendents of King David. And yet the same sacred History informs us, that many of these Priests and Kings were very foolish and wicked Men.

As to the Indefeasibleness of the hereditary Succession our Author speaks of, it is not to be denied that that Rule of Succession has sometimes by God Almighty himself, to make his sovereign Dominion above all Kings known, and for other wise. Ends of his Providence, been broken and interrupted: And sometimes for the Punishment of wicked Kings and People, he has permitted it to be not only interrupted, but entirely cut off. But how far that is agreeable to his holy Will, and to the Nature and Constitution of hereditary Kingdoms, as my Argument does not require it, so neither is it my Business to enter into the Merits of that Cause on either Side.

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APPEN

### APPENDIX.

#### Num. I.

Charta Roberti Senescalli Scotia, facta uni capellano in ecclesia Glasquensi, Anno Mccclxiv, Ex autographo, in archivo collegii Scotici Parisiis asservato.

Mnibus hanc Carram visuris vel audituris, Robertus Senescallus Scotia, Comes de Stratherno, salutem in Domino fempiternam. Cum dudum venerabili patri domino Willelmo Del gratia Episcopo Glasguensi, fucrit per litteras Apostolicas specialiter delegarum, at super matrimonio contrahendo inter nos & quondam Elyzabeth More, dum ageret in humanis, non obstante impedimento consanguinitatis & affinitatis contractui matrimoniali prædicto impedimentum præstante, auctoritate Apostolica dispensaret, dummodo duas capellas, vel unam, pro arbitrio ipfius episcopi, perpetud fundaremus: Ac dietus venerabilis pater, consideratis in hac parte considerandis, nobiscum super impedimento prædicto, auctoritate qua supra, dispensans, nobis injunxerit, ut una capellania in ecclesia Glasquensi, ad unum certum altare, ad pensionem decem marcarum Sterlingorum, annuatim percipiendam de certis redditibus nostris, fundaretur perpetuo; nosque eandem capellaniam sic fundare fideliter promiserimus, infra certum tempus jam transactum, nobis tune per dictum episcopum limitatum: Noverit universitas vestra nos, ex cansa præmissa, dedisse, concessisse, & hac præsenti carra nostra confirmasse, pro nobis & heredibus nostris perperuò, Dio, B. Maria Virgini, B. Kentegerno, & uni capellano celebranti, & celebraturo perpetuo in ecclesia Glasguensi prædicta, decem marcas Sterlingorum, ad sustentationem ejusdem capellani, annuatim percipiendas de annuo redditu quadraginta librarum Sterlingorum exeunte de terra Del Cars Abbatis, infra vicecomita-

mm de Stryvelyne, & nobis & heredibus nostris debito per religiofos viros, abbatem & conventum monafterii Sancte crucis de Edynburgh: Tenend. habend & percipiend. annuatim in perpetuum, eidem capellano qui pro tempore fuerit, per manus dictorum religiosorum, ad terminos Pentecoftes & Sancti Martini in hyeme, per portiones æquales, ins liberam, puram & perpetuam elymosinam; adeo libere, quiete, plenarie & honorifice, sicut aliqua elymosina per totum regnum Scotiæ, liberius conceditur, percipitur, five datur, Et nichilominus totum jus nobis competens per cartam infeodationis recolendæ memoriæ Domini Regis Roberri avi nostri, sive obligatorium dictorum Abbatis & conventus, seu quascunque alias evidentias, ad compellendum dictos Abbatem & conventum ad solutionem dicti annui redditus decem marcarum, in Episcopum Glasguensem qui pro tempore fuerit, & capitulum Glasguense, sede vacante, per hanc cartam nostram perpetuò transferimus, ipsosque & eorum alterum, quantum ad hoc, nostros & heredum nostrorum assignatos & assignatum facimus, constituimus, & etiam ordinamus. Et si forte contingat, quod absit, quod dictæ decem marcæ annuæ, per dictum capellanum qui pro tempore fuerit, percipi non potuerint, ut est dictum; vel ex eo quod dicti abbas & conventus folvere noluerint, aut compelli non potuerint ad folutionem carundem; vel ex eo quod nos, aut aliquis heredum nostronum, contra præsentem inteodationem & concessionem nostram, solutionem dictarum decem marcarum impediverimus aut impediverit, aut per nos, feu alium vel alios, clam vel palam, directe vel indirecte, procuraverimus seu procuraverir impediri, obligamus nos & heredes nostros, per omnia bona nostra, mobilia & immobilia, ad solvendum dictas decem marcas, de aliis redditibus nostris, ubi episcopus Glasguensis, qui pro tempore fuerit, vel capitulum ejusdem, sede vacante, duxerit eligendum, toto tempore quo cessarum fuerit à solutione dictarum decem marcarum, percipiend, de annuo redditu supradicto: Subjicientes nos & heredes nostros jurisdictioni & cohercioni episcopi Glasguenfis & ipfius officialis, qui pro tempore fuerint, ut ipfi, per omnimodam censuram ecclesiasticam, nos & heredes noftros compellere valeant ad perficienda omnia & singula supradicta, in casu quo defecerimus vel desecerint, quod absit, in aliquo præmissorum. Et, ultra omnia prænotata, nos & heredes nostri prædicti, donationem & concessionem nostram de dictis decem marcis annuis percipiendis, ut supra, de annuo redditu supra-dicto, prædictis episcopo, ecclesias Ddda

Glasguensis, & capellano qui pro tempore suerint, contra omnes homines & seminas warrantizabimus, acquietabimus, & in perpetuum desendemus. In cujus rei testimonium, sigillum nostrum, una cum sigillo Johannis Senescalli, Domini de Kyle, primogeniti & heredis nostri, prasentibus est appensum. Hiis testibus, venerabili patre domino Roberto, Abbate monasterii de Kylwynnyne, & Dominis, Johanne Senescallo, statre nostro, Hugone de Egglyntonne & Thoma de Fauside, Militibus; Johanne Mercer, burgensi de Perth, Johanne de Rose & Johanne de Tayt, Armigeris nostris, & aliis. Apud Perth, duodecimo die mensis Januarii, Anno Domini millessmo, tricentessmo sexagesimo quarto.

# Num. II.

Declaratio Parliamenti, ubi Johan-NES, primogenitus Roberta II. Regis, habet succedere in regnum. xxvii. Martii, Mccclxxi.

N Nomine sanctæ & individuæ Trinitatis, PATRIS & FILIT & SPIRITUS SANCTI. Amen. Anno, ab incarnatione Domini, millesimo, trecentesimo septuagesimo primo, fecundum morem & computationem ecclefix Scotticana, mensis Martii die vicesimo feptimo; Serenissimus Princeps Dominus Robbe Tus, Dei gratia, Rex Scottorum illuttris, apud Sconam, tempore sua coronationis, existent; affistentibus sibi Pralatis, Comitibus, Baronibus, ac ceteris de clero & populo regni sui; post sacra unctionis & coronationis suæ peracta solennia, factaque declaratione juris, que idem Serenissimus Princeps successir, ac succedere debuit, Domino Davin Regi Scotiz, avunculo & prædecessori suo, tam proximitate sanguinis, quam ex quadam declaratione, per quadam instrumenta confecta tempore inclitæ memoriæ Domini ROBERTI Regis Scotiæ, avi & prædecessoris ipsius Domini nostri Regis, ibidem exhibita atque lecta; Nec non, receptis homagii & fidelitatis folitis juramentis ab ipfis Prælatis, Comitibus, Baronibus, & aliis de clero & populo ibidem existentibus, in coronatione Regum Scotiz ab olim præstari consuetis & debitis; Volens, more & exemplo celebris memoria ejusdem boni Regis Roberti, avi sui, coram

clero & populo, fuccessorem & verum heredem fuum de clarare ibidem, licet de ipfo clare constitit arque conster rex habundanti, & unanimi consensu & assensu dictorum Prælatorum, Comitum, Procerum & Magnatum, indicavit, afferuit & recognovit, declaravit & voluit, Quod cum infum contigerit, pro dispositione Divina, ab hac luce migrare, Dominus I O HANNES, filius fuus primogenitus, comes de Garrik & Senescallus Scotie, erit, & offe debet, verus & legitimus heres fuus, ac fibi, post mortem suam, in regno Scotia. Domino disponente, succeder, & succedere debet, & post eum sedebit, & sedere debebit, super folium regni fui. Qua declaratione sic facta per ipsum Dominum nostrum Regem. de præfato primogenito & herede suo, ex habundanti, ut suprà, unufquifque Prælatorum, Comitum, Procerum, Magnarum, & aliorum ibidem existentium, voce propria, singillatim, pro se, heredibus & successoribus suis, asseruit, affirmavit, declaravit, recognovit & voluit, Quod idem Dominus JOHANNES, post mortem præfati patris sui superstes & vi-Yus, fit, Divina favente gratia, futurus Rex Scotia, tanquam heres legittimus ejusdem, patris sui : Promittens quilibet, bona fide, & manu, in fignum fidei dationis, levata, Quòd eum pro Rege & herede legittimo ejusdem patris sui habiturus erit; ipsumque juvabit atque defendet contra quoscunque mortales; nec non figillum fuum scripto, seu instrumento, super hoe fiendo, apponet, in signum suorum consensus & promissionis prædictorum, cum ipsi super hoc fuerint requisiti. Quibus recognitione, promisso & fidei datione, in consilio Domini nostri Regis, sic præmissis & actis, idem Dominus noster Rex, per venerabilem virum magistrum Johannem de Peblis, doctorem Decretorum, canonicum Glasguen. clericum suum, proponi fecit in publicum, Qualiter, ex habundanti, indicavit & declaravit, præfatum Dominum Jo-HANNEM, filium fuum primogenitum, verum fuum heredem. prout eft, & esse debet de jure, & post mortem suam, regni Scotiz, volente Deo, Regem futurum; & qualiter præfati Comites, Proceses, & alii de confilio, affirmaverunt, recognoverunt, confenserunt, & fide media, ut præmittitur, promiserunt; & qualiter omnem populum cum clero convocari fecerat, ut in corum præsentia, & de corum consensu unanimi. fieret & publicaretur, ne aliquis super hoc ignorantiam prztendere posset aliqualiter in futurum. Tota autem multimdo Prælatorum, Comitum & Baronum, & aliorum tam cleri quam populi, unanimi voluntate & clamore consono, nullo penitus reclamante, affirmayerunt, recognoverunt & voluerunt, ipsum Dominum Johanne m, tanquam primogenitum & verum heredem Domini nostri Regis, patris sui, suum sore Regem suturum; at manusevată, insignum sidei dationis, promiserunt, Quod eum pro Rege suo suturo, volente Deo, habituri erunt post mortem patris sui, ipsumque juvabunt atque desendent, de toto posse, contra quoscunque mortales. Quibus sic actis, prestati Prestati, Comites & Barones ibidem existentes, sigilla sua huic scripto apposuerunt, ad perpetuam & suturam memoriam, in testimonium omnium premissorum, una cum signo & subscriptione publici tabellionis subscripti, Acta suerunt hec apud Abbachiam de Scona, mense, die & anno supradictis,

Et ego Johannes Rollo Clericus, Moraviensis diocesis, publicus Apostolica auctoritate notarius, prædictis indicationi, declarationi, affirmationi, nec non promissioni, manuum levationi, ac prædicti magistri Johannis de Peblis populo publicationi; una cum venerabilibus in Christo patribus, Dominis Willelmo, Waltero, & Patricio Sanchi Andrea, Glasquenfis & Brechinenfis ecclesiarum epi-Copis; ac discretis viris, Dominis Johanne de Carryc, Canonico Glafguenfi, Waltero de Byggar, rectore ecclefix de Erol, Cancellario, & Camerario Scotia; nobilibus viris, & potentibus Dominis, Thoma de Mar, Wildelmo de Douglas, & Roberto Senescal. Comitibus; Thoma de Haya, Willelmo de Keth, Conftabulario, & Marescallo Scotiz; Archebaldo de Douglas, Jacobo de Douglas, Roberto de Erskyne, Alexandroj de Lindefay, Thoma de Erskyne & Duncano Wallays, Baronibus ac Militibus; magistro Johanne de Peblis supradicto; & multis aliis teftibus, ad præmiffa vocatis pariter & rogatis, primo in secreta camera prædicti Domini Regis in suo secreto consilio, & post in camera sui Parliamenti, in publice, ut prædicitur, coram populi multitudine hoc approbante, factum, anno, die, mense & locis supra dictis, indictione nona, pontificatus fanctiffimi in Chri-· Ato patris & Domini nostri Domini Gregorii, divina providentia Papæ undecimi, anno primo; præfens interfui, eaque omnia & fingula fuperius expressa, dum fic agerentur, scivi, vidi & audivi; præsens instrumentum, de manu alterius scriptum, signo meo consueto, ad instantlam prædicti Domini Johannis, ipsius Domini Regis primogeniti, Comitis de Carrik, Scotiæ Senefcalli, fignavi hie me propria manu subscribens, vocatus pariter

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& rogatus, la testimonium omnium præmissorum, interlineationem in ultima linea mez subscriptionis, Jehra nis, approbando.

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Declaratio Parliament de jure successos nis liberorum Roberta II. Regis in regnum Scotie, in Aprilis MCCCLAXIII.

N. Der nomine Amen. Appe ab incarnatione ejufdem miletimo trecemetimo feptuagetimo terrio, & regni Regis Roberti secundi anno terrio mentis Aprilis die quarto, prafacus Rex Rober Tus fenens parliamentum fuum apud Sconam. ac supiens incertitudinem successionis, & mala & damnay que in plerifque regnis & partibus contingunt, & contigerunt retroactis temporibus, obvidre y on deliberato confilio, & cum confemlu & affenfu Prelatorum, Comitum & Baronum, ceterorumque procerum & nobilium, ac omnium aliorum de tribus flatibus, five communicatibus, totius regnie congregatorum ibidem, declaravir, ordinavit, & stamit, Quod fifii ipinis Regis ex fua prima & fecunda uxoribus nune gentri, & corum heredes masculi duntaxat, successive succedent ipsi Regil in regium O in jus regnandi, per modum infra scripnum, & sub forma & conditionibus infra feriptis, videlicet; Quod Dominus Johan-MES, primogenitus ipfius Regis, Comes de Carrik ao Senescallus Scoria, (pro cujus successionis jure in parliamento inte mediate præcedenti plene fuerat declaratum; ) & heredes fui masculi duntavat, post mortem Regis ipsius, fibl in regnum & in jus regnandi fuededent. Et, ipfis Domino Johanne & hea redibus fuis masculis deficientibus forsitan, quod absit, Dominus ROBERTUS Comes de Fyffe & de Menereth, filius ipfius Domini Regis ex prima uxore secundo genitus, & heredes sui malculi duntaxat, in regnum & in jus regnandi, fucceffive & immediare succedent. Ety ipsis Domino Roberto & heredis bus suis hujusmodi deficientibus etiam fortaffe, quod absir. Dominus ALEXANDER, Dominus de Badenach, filius ipfius Domini Regis ex eadem uxore tertio genins, & heredes fui mafeuli tantum in regnum & in jus regnandi, post morrem ipforum, fimili modo fucceffive & immediare fuccedene. Ipfis verò Domino Alexandro & heredibus fuis prafatis similiter forfitan,

filan, quod absit, deficientibus, Dominus Davro Comes de Stratherne, filius ipfius Domini Regis ex secunda uxore genitus. & heredes sui tantummodo masculi, eisdem sic deficientibus ex toto, in regnum & in jus regnandi similiter successive & immediate succedent. Ipsis verò David & heredibus suis prædictis similiter forte deficientibus, [quod absit,] WALTERUS, filius iplius Domini Regis, frater germanus iplius Domini David, & heredes ipsius duntaxat masculi, in regnum & in jus regnandi simili modo succedent. Prædictis autem quinque fratribus, & eorum heredibus masculis ab ipsis descendentibus. deficientibus forfitan finaliter & ex toto, quod absit, veri & legitimi heredes, de languine & parentela regali ex tunc permanentes in regnum & in jus regnandi fuccedent. Quibus sic ftatutis, ordinatis, declaratis, & actis, omnes Prælati, Comites & Barones, ac omnes de tribus statibus sive communitatibus totius regni, in iplo parliamento ibidem propter hæc & alia congregati, præfatas declarationem, ordinationem & fratutum ratificaverunt, & approbaverunt, pro se & suis heredibus, perpetuis & futuris temporibus duraturas. Et nihilominus infra-Scripti Prælati, videlicet Dominus Willelmus Sancti Andrea. Michael Dunkeldensis, Alexander Abirdonensis, Patricins Brechinenfis, Alexander Moravienfis, Andreas Dumblanenfis, Alexander Rossensis, & Malcolmus Catenensis ecclesiarum Episcopi, præsentibus & apertis sacrosanctis Dei evangelis, ac infrascripti Comites, Barones & nobiles, primo videlicet ipfi filii Regis, fenioris & provettæ ataris, Domini scilicet Johannes, Robertus, & Alexander, nec non Domini Willelmus de Douglas, Georgius de Dumbar, Marchia, Joannes de Dumbar Moravia, Comites; Thomas de Haya Conflabularius Scoria, Domini, Willelmus de Keth Mariscallus Scotia, Jacobus de Lindesay Dominus de Crawfurd, Archibaldus de Douglas Dominus Galwidiz, Jacobus de Douglas Dominus de Dalketh, Robertus de Erskine, Hugo de Eglintone. Duncanus de Walays, David de Grahame, Walterus de Halyburtone, Willelmus de Dischington, Alanus de Erskine, Alanus de \*\* \* \* \* , Jacobus de Fraser, Alexander de Fraser, Robertus Senescalli de Innermethe, Rogerus de Mortuomari, David filius Walteri, Patricius de Grahame, Andreas de Valoniis. Johannes Walays, Johannes Maxwell, Andreas Cambel, Willelmus de Cunninghame filius, & Johannes Strathachin, Milites; Johannes Kennedy & Alexander de Cockburne Scutiferi eisdem sacrosanctis evangeliis per eorum quemlibet manutactis, corporaliter juraverunt, quod præfatas declarationes, ordinationes & statuta, pro se & pro corum heredibus, inviolabiliter litan.

labiliter observabunt, & ab aliis, pro viribus, perpetud fa-cient observari. Consequenter verò & immediate, totà multitudine cleri & populi in ecclefia de Scona, ante magnum altare, propter hoc specialiter convocata, ac præfatis declaratione, ordinatione & flatuto fic juratis; altà & publica voce eis expositis, quiliber levată manu, per modum sidei dationis, în signum universalis confensus totius cleri & populi, exprimebat & manifestabat publice fuum confensum pariter & affenfum In quorum omnium testimonium præfatus Dominus Rex præfenti scripto, sive instrumento, sum magnum præcepit apponi sigillum : Et ad majorem evidentiam & securitatem plenariam, omnes Episcopi, Comites, Barones, & nobiles supradicti, eidem instrumento sua sigilla fecerunt apponi, gratia testimonii, & ad perpetuam memoriam suturorum, Acta suerunt hac apud Sconam, in pleno parliamento Domini Regis prædicti, anno, mense & die superius annotatis, swith it les come abroad in the

and Mr. Floy's Editions. The Publication of the. third tolen from a Copy amon at Acreir Stemant's Collections) is chiefly on my to the re-

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## POSTSCRIPT.

NO put the Legitimacy of our King Robert III. beyond all possible Dispute, I have subjoined the three authentick Documents contained in the preceeding APPENDIX. The first is taken from the Original, as published by Mr. Innes, F. Mabillan, and others. The second is likewise from the Original among our publick Records, in which particular Care has been taken to rectify a great many Errors, and to Supply some Omissions wherewith it has come abroad in the Earl of Cromarty and Mr. Hay's Editions. The Publication of the third, (taken from a Copy among Sir Lewis Stewart's Collections) is chiefly owing to the repeated Importunity and Clamour of my Reverend Antagonist, both in his first and second Treatifes. who feems not at all to be fatisfied with what Sir George Mackenzie, Sir Fames Dalrymple and others cite from it. But now that it is fet down at large, as he again and again requires, I hope he will at last be persuaded that, I. Elizabeth More was Robert II.'s first Wife, and Eupheme Ross the fecond. 2. That David Earl of Strathern was Robert's eldest Son of that second Marriage, contrary to what he and most of our Historians affirm. And 3. That there can now remain no Doubt concerning the Legitimacy of John (alias Robert III.) his Father's eldest Son by Elizabeth More his first Wife.

